City of Lafayette Staff Report

For: City Council

By: Christine Sinnette, Senior Planner

Date Written: August 4, 2008

Meeting Date: August 11, 2008

Subject: **MS504-87CCII – ROBIN AND KRIS LEAMY (APPLICANTS & OWNERS), R-40 ZONING**: Request for a minor subdivision to divide 19.23 acres into three lots for residential development pursuant to Chapter 6-20 and Chapter 6-30 of the Lafayette Municipal Code (LMC), located at 4123 Happy Valley Road, APN 247-010-019 and 020 ("Project"). City Council review and consideration of Resolution 2008-037 relating to the following: (1) adoption of environmental findings; (2) certification of a supplement to the environmental impact report; (3) adoption of a mitigation monitoring and reporting plan; and (4) approval of MS504-87CCII.

INTRODUCTION

At their meeting of July 28, 2008, the City Council conducted a public hearing and considered a supplement to the EIR (SEIR), the Project, and conditions of approval, and continued the matter to the meeting of August 11. A background of the Project history, Project description, and analysis of Project conformance with the General Plan, zoning ordinance, and the California Environmental Quality Act (CEQA) was discussed in the July 28 staff report which is included as Attachment A.

PROJECT DESCRIPTION

The current Project is the subdivision of 19.23 acres into three lots. Parcel A is 2.55 net acres and has been identified as the preferred site by East Bay Municipal Utility District for their Sunnyside pumping plant. Parcel B is 13.82 net acres and Parcel C is 2.34 net acres. The project also includes a slight realignment of the interior access road and conservation easement to better conform to the topography. The conservation easement has been increased from 259,148 square feet to 259,258 square feet and now includes the riparian vegetation at the upper end of the western drainage. The homesite on Parcel A has been shifted west closer to the interior access road and farther away from the downhill homes on Soares Lane as recommended in the 1988 Final EIR. See Attachment B – Tentative Map.

The current project now includes the complete repair of two on-site landslides and a swale containing a complex of landslide debris and colluvial deposits (see Figure 5, Draft SEIR), provision of an on-site stormwater drainage system (see Attachment C and Appendix L in the Final Supplement to the EIR), and enhanced trail easement dedication. It is anticipated that remedial earthwork will involve approximately 79,500 cubic yards of soil. The grading operation would proceed in stages, with cyclical placement and removal to an on-site stockpile in the northern portion of Parcel B. This area can accommodate a stockpile of approximately 24,400 cubic yards. See Attachment C – Site Plans. To provide clarification on the extent of remedial earthwork to the landslide and swale located at the Parcel B/C lot line, the project description in the Final Supplement to the EIR (FSEIR) has been revised to state, "The western portion of the landslide complex at the Parcel B/C lot line, upslope of the access road will be repaired to adequately stabilize the road. All of this landslide and the colluvial soils east of the road will be repaired through excavation and compaction." See Chapter 10, FSEIR for revision.

COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

A Draft SEIR was prepared by City staff addressing the current plan which, though a smaller overall project, now includes more remedial earthwork. The SEIR evaluates the potential impacts associated with the current plan and updated baseline reports and identifies the additions or changes necessary to make the previous EIR adequately apply to the current plan. The 1988 FEIR was used as a basis for information about the setting of the project site and surrounding area, and for thresholds for determining impact significance. The FEIR is reproduced in its entirety in Appendix B of the Draft SEIR.

The FEIR and SEIR are informational documents prepared to inform City decision-makers and the public of the significant environmental effect of the project, possible ways to minimize the significant effects, and reasonable alternatives to the project. The SEIR concludes that the project would result in less than significant impacts related to noise. Although the FEIR and SEIR identified that the project could result in significant impacts on Planning and Policy Context, Traffic and Circulation, Geotechnical Considerations, Storm Drainage and Runoff, Biologic and Habitat Considerations, and Visual, Cultural, and Other Environmental Considerations, it concludes that all project impacts can be mitigated to less than significant levels. The SEIR also includes sections on the CEQA process, project description and objectives, cumulative and growth-inducing impacts, and alternatives. The SEIR revises the FEIR through supplementation.

The Draft SEIR was submitted to the State Clearinghouse and approved for a 30-day public review period which ended on July 14, 2008. It should be noted that CEQA requires public review of environmental documents but does not require public hearings. Seven sets of written and oral comments were submitted on the Draft SEIR during the public review period. In accordance with Section 15088(a) of the State *CEQA Guidelines,* the City of Lafayette Planning Services Division, as the lead agency, has evaluated the comments received on the Draft SEIR and has prepared written responses to the comments received. All comments on the Draft SEIR, and the responses thereto, are presented in a Final Supplement to the EIR. The FSEIR is composed of the following elements:

- Revisions to the Draft SEIR;

- A list of persons and organizations that commented on the Draft SEIR;

- Copies of all comments received; and

- Written responses to environmental points raised in those comments.

Pursuant to Section 15090(a) of the State *CEQA Guidelines,* the Final SEIR must be certified before the lead agency can take action on the project. The Guidelines also state that a lead agency may provide an opportunity for review of the Final EIR by the public or by commenting agencies before approving the project although public review is not required. The review of the Final EIR should focus on the responses to comments on the Draft SEIR.

Before approving (or conditionally approving) the Project, written CEQA findings must be prepared for each significant impact identified for the Project, accompanied by a brief explanation of the rationale for the finding. A Mitigation Monitoring and Reporting Plan (MMRP) must also be prepared. Certification of the FSEIR and approval of the CEQA findings and MMRP may be considered during one final public hearing. The certification of the FSEIR must be the first in this sequence of approvals. Included with this staff report is City Council Resolution 2008-037. The Resolution lists each significant impact identified for the Project and contains the required CEQA findings as well as the land use and regulatory findings to approve the project. The MMRP is Exhibit A of the Resolution. Conditions of approval and mitigation measures are listed in Exhibit B.

PUBLIC NOTIFICATION

Since the public hearing on MS504-87CCII was continued from the meeting of July 28, 2008, no new notification was provided. Three letters have been submitted since the last meeting. One is from David Bowie. His letter restates some of the points made to the Council during the public hearing and provides background on the subdivision application (see Attachment D). Edward Shaffer submitted two letters (see attachments E and F). Mr. Shaffer's letters focus on issues related to the City's application and CEQA processes, project impacts, and level of studies. Most of his comments are addressed elsewhere in this report, in the FSEIR, and in City Council Resolution 2008-037.

STAFF ANALYSIS AND COMMENTS

Questions have been raised by the City Council and the public as to the adequacy of technical studies and project plans for MS504-87CCII. To respond to these questions, Tony Coe, Engineering Services Manager, has prepared a memorandum discussing geotechnical studies and investigations, buttress fill subdrains, and drainage (see Attachment G).

There was a lengthy discussion on the potential geotechnical and hydrological impacts of the project by City staff and consultants, the applicant's project team, the public, and the Planning

Commission and the public hearing on June 19, 2008. Based on this discussion and after consultation with the City Attorney and City Engineer, staff proposed that several of the mitigation measures and/or conditions of approval be revised to provide clarification on intent, scope, and timing. These revisions were presented to the Planning Commission at their July 3, 2008 meeting while the Draft SEIR was still under public review. The Planning Commission approved the revisions and subsequently voted to forward their recommendations on the Draft SEIR, conditions of approval, and Project to the Council.

Concerns have now been raised by the public as to the appropriateness of these revisions. Mitigation measures subject to revision or elimination were 5, 6, 7, 8, and 12. The purpose of the revisions was explained in the July 3 staff report. The revisions did not involve any changes in the City's significance determination of environmental impact but were simply a clarification of the existing analysis and recommended mitigation measures. Despite this, staff has reconsidered the revisions and is recommending that mitigation measure 8 not be eliminated although it is expected that the additional study suggested in the measure will only confirm that development of Parcel A will not be impacted by landslides. Explanations for how and why the remaining mitigation measures were revised can be found in Attachment G of this staff report and at pages 99 and 100 in the FSEIR.

FINDINGS

In order to approve MS504-87CCII, the City Council must make a series of findings related to the subdivision of land and development in the hillside overlay district. The findings are listed below with an explanation of how the proposed project is consistent with each finding.

The findings for approval of a minor subdivision are the same as those for granting a land use permit (§6-215, §6-216).

1. The proposed subdivision will not be detrimental to the health, safety and general welfare of the city.

   The proposed subdivision will not be detrimental to the health, safety and general welfare of the city because potential impacts, including traffic and drainage, have been evaluated in the FSEIR and will be reduced to a less than significant level through implementation of mitigation measures 2, 3, 4, 5, 10, 11, 12, 13, 14, 25, and 28. Conditions of approval (13, 27, 33, 78, 81, 82, 83, and 85) including compliance with Contra Costa Fire Protection District standards, compliance with Central Contra Costa Sanitary District standards, compliance with the provisions of Chapter 5-2, Noise, Lafayette Municipal Code, and design and hillside development application review for the new homes are imposed to protect the general welfare of the community.

2. The proposed subdivision will not adversely affect the orderly development of property within the city.

   The proposed subdivision will not adversely affect the orderly development of property within the city because the subdivision complies with General Plan and R-40 zoning

district standards and will create only three lots on property zoned for as many as twelve lots in an established residential neighborhood. All requisite utilities and infrastructure are in place or can be provided. Conditions of approval (5, 6, 9, 14, 22, 40, and 86) require the applicant to submit improvement, grading, and drainage plans to the City Engineering Services Manager for review and approval. Mitigation measures 12, 13, 14, and 15 require the applicant to provide on-site drainage facilities based on performance standards and the payment of drainage impact fees.

3. The proposed subdivision will not adversely affect the preservation of property values and the protection of the tax base within the city.

   The proposed subdivision will not adversely affect the preservation of property values and the protection of the tax base within the city because public agencies that benefit from an increased tax base will benefit from the establishment of three single family dwellings on the vacant property. Single family dwellings on lots comparable or larger in size to those in the neighborhood will not adversely affect the property values of nearby properties. Mitigation measures 5, 6, and 7 require the mitigation of unstable soils. Mitigation measures 1, 19, 20, and 21 require the preservation of on-site habitat and visual resources as do conditions of approval 23, 32, 38, 62, and 63.

4. The proposed subdivision is consistent with the general plan and each element of it and will not adversely affect the policies and goals set forth in the general plan.

   The proposed subdivision is consistent with the general plan and each element of it and will not adversely affect the policies and goals set forth in the general plan. The proposed subdivision is located in an area designated by the General Plan as Low Density Single Family Residential which allows up to two dwelling units per acre and the subdivision is designed at one dwelling unit per six acres. The design of the subdivision and improvements will protect the character and pattern of growth by complying with Fire District safety requirements and City of Lafayette engineering standards. Development is clustered to maximize the amount of land to be retained as open space. The project includes enhancement of existing conservation and trail easements.

5. The proposed subdivision will not create a nuisance or enforcement problem within the neighborhood.

   The proposed subdivision will not create a nuisance or enforcement problem within the neighborhood because the project is designed or conditioned to comply with all fire safety and city engineering standards, will have minimal impacts on traffic volumes and safety, and the use is single family which is in keeping with the neighborhood. Temporary construction related impacts will be mitigated through implementation of mitigation measures 10, 11, 16, and 28 and conditions of approval 13, 15, 16, 18, 19, and 33.

6. The proposed subdivision will not encourage marginal development within the neighborhood.

The proposed subdivision will not encourage marginal development within the neighborhood because it has either been designed or conditioned to insure that all necessary public and private improvements are made. By all indications, development of the property for each new single family dwelling will comply with R-40 zoning district requirements for setbacks, parking, and height and will not result in marginal development. Mitigation measures 5, 6, 8, 9, 12, 13, and 14 are proposed to address potential impacts from drainage and unstable soils. Mitigation measures 1, 25, and 26 require compliance with creek setbacks, mitigation of visual impacts related to infrastructure development, and design review of development plans for the individual lots. Conditions of approval 41, 80, and 85, respectively, require establishment of subdivision conditions, covenants, and restrictions, landscape maintenance agreements for each lot, and an operation and maintenance plan for on-site subdivision drainage facilities.

7. The proposed subdivision is consistent with the purpose section of the zoning district in which it is located.

The proposed subdivision is consistent with the purpose section of the zoning district in which it is located. The R-40 zoning district does not have a purpose section. However, given that the lots are at least twice the size required by the R-40 zoning district, it is expected that single-family residential development of the property will comply with R-40 zoning district requirements for setbacks, parking, and height and will not result in marginal development. Mitigation measure 1 requires compliance with creek setbacks. Mitigation measure 25 requires design review of development plans for the individual lots.

Findings Required for Approval of Subdivision in the Hillside Overlay District (§6-2071 LMC)

a. The design of the subdivision and the proposed development are derived from naturally contoured sites of reasonably regular configuration, do not create building sites on slopes exceeding 30 percent nor result in the need for construction of primary structures outside the areas of 30 percent or less slopes.

The design of the subdivision and the proposed development are derived from naturally contoured sites of reasonably regular configuration, do not create building sites on slopes exceeding 30 percent nor result in the need for construction of primary structures outside the areas of 30 percent or less slopes. All proposed homesites are within areas of reasonably regular configuration of less than 30 percent slope. The average slope for homesites on parcels A, B, and C are 29.4 percent, 20.2 percent, and 19.7 percent, respectively.

b. The design of the subdivision and the proposed development will result in each structure being substantially concealed, as required by LMC Section 2-2048, when viewed from lower elevations from publicly owned property (including freeways, roadways, open

space, parks and trails), using the viewing elevation map as a guide to establish locations from which views are considered.

The design of the subdivision and the proposed development will result in each structure being substantially concealed, as required by LMC Section 2-2048, when viewed from lower elevations from publicly owned property (including freeways, roadways, open space, parks and trails), using the viewing elevation map as a guide to establish locations from which views are considered. The only location on the viewing evaluation map from which the project site can be seen is Happy Valley Road and the roadway is higher, not lower than the project site. Even so, most of the building sites will be screened from Happy Valley Road by existing topography and vegetation. For motorists driving west on Happy Valley Road, the home would be generally concealed from the roadway by the existing screen of trees until they reach the open area near the driveway entrance where the roof of the house would be seen. Existing trees and development along the eastern portion of Happy Valley Road block views of the future homesite for motorists within Lafayette. The homesite on Parcel B would be barely visible at an oblique angle from Happy Valley Road at the project entry driveway, a distance of about 550 feet to the southwest. Only the top portion of a house sited on Parcel C would be visible from Happy Valley Road due to a combination of distance (500+ feet), topography, and existing vegetation.

c. The design of the subdivision provides for a trail or portions of trails in conformance with the City's adopted Master Trails Map or an adopted regional trail plan, and the trail is dedicated and conditioned for improvement in accordance with adopted standards.

The design of the subdivision provides for a trail or portions of trails in conformance with the City's adopted Master Trails Map or an adopted regional trail plan, and the trail is dedicated and conditioned for improvement in accordance with adopted standards. There is an existing 10-foot trail easement on this property which is an integral part of the West Trail as identified in the City's adopted Trails Master Plan. Pursuant to condition of approval 35, this easement will be widened to the current standard of 20 feet to allow some leeway in placing the trail itself (minimum 3 feet wide) for ease of travel within the easement.

d. The design of the subdivision and proposed development use clustering or other site planning techniques to preserve hillsides, ridgelines and open space, minimize grading and impacts on wildlife habitats to the extent feasible, and provide for the preservation of on-site open space and vegetation, terrain, scenic vistas, trail corridors, streams or water courses, or other areas of ecological significance through dedication, easement, land trust or suitable regulation.

The design of the subdivision and proposed development use clustering or other site planning techniques to preserve hillsides, ridgelines and open space, minimize grading and impacts on wildlife habitats to the extent feasible, and provide for the preservation of on-site open space and vegetation, terrain, scenic vistas, trail corridors, streams or water courses, or other areas of ecological significance through dedication, easement, land

trust or suitable regulation. The design of the subdivision clusters three homesites on the lower slopes away from the existing 9-acre scenic easement area located on the southern hillside. Grading will be required for landslide repair in the grassland portion of the site and will result in the removal of a stand of pine trees and two dead or dying oaks tree but will avoid the more sensitive oak woodland habitat on parcels B and C and the Diablo rockrose population. Almost 50 percent of the 19.23-acre project site will remain in open space protected by an expanded scenic easement which now encompasses more of the riparian habitat on the western side of the property. As conditioned (35), the existing trail easement will be widened to 20 feet and development on Parcel C will comply with the City's creek setback regulations (mitigation measure 1). Mitigation measures 19, 20, and 21 require the preservation of on-site habitat and visual resources as do conditions of approval 23, 32, 38, 62, and 63.

e. The design of the subdivision and the proposed development are arranged so that no portion of the lot exceeding a slope of 35 percent, is proposed to be altered by grading removal or alteration of a natural feature, the removal of vegetation or other activity related to the preparation of the site for development, except fire protection, or other measures necessary for public safety, slope or geologic stabilization or the provision of a trail in conformance with the City's adopted Master Trails Map or an adopted regional trail plan or where the Planning Commission finds that an exception is necessary to provide the least intrusive or damaging access to an approved building site.

The design of the subdivision and the proposed development are arranged so that no portion of the lot exceeding a slope of 35 percent, is proposed to be altered by grading removal or alteration of a natural feature, the removal of vegetation or other activity related to the preparation of the site for development, except fire protection, or other measures necessary for public safety, slope or geologic stabilization or the provision of a trail in conformance with the City's adopted Master Trails Map or an adopted regional trail plan or where the Planning Commission finds that an exception is necessary to provide the least intrusive or damaging access to an approved building site. This finding can be made because no portion of the development, including grading for homesites, roadways, and soil stabilization activities will occur in areas exceeding a slope of 35 percent.

f. The development, including site design and the location and massing of all structures and improvements, will preserve the open and uncluttered topography of the City, and not interfere with a ridgeline corridor or compromise the open space or scenic character of the corridor.

The development, including site design and the location and massing of all structures and improvements, will preserve the open and uncluttered topography of the City, and not interfere with a ridgeline corridor or compromise the open space or scenic character of the corridor. As designed, the project clusters three homesites on the lower slopes away from the existing 9-acre scenic easement area located on the southern hillside. At a density of one dwelling unit per six acres, the project is much less dense than surrounding development. The project site is not located on a ridgeline or within a

ridgeline corridor. The nearest designated ridgeline (Class III Canyon Ridge) is more than 800 feet southwest of the project site.

g. Each proposed house location and the location of each related structure is sited to minimize loss of privacy and not unduly impact, restrict or block significant views.

Each proposed house location and the location of each related structure is sited to minimize loss of privacy and not unduly impact, restrict or block significant views. The three homesites are located on the lower slopes of the project site and will not unduly impact, restrict or block significant views or impact the six acres covered by the scenic easement. The building sites for parcels A and C are located at least 200 feet away from the nearest adjacent residence minimizing the loss of privacy. Although no specific building site is shown for Parcel B, there is a minimum 25-foot setback from the much more densely developed Sundown Terrace subdivision adjacent to the project site. There is adequate buildable area on Parcel B so that when a specific housesite location is chosen, privacy impacts should be able to be mitigated particularly since any future house on Parcel B will be subject to the City's design and hillside development review process pursuant to mitigation measure 25. Additionally, condition of approval 74 requires that plans for development of Parcel B include the planting of native vegetation for privacy screening between Parcel B and the abutting properties to the north on Sundown Terrace.

h. The design of streets, streetlights, storm drainage, utilities and other common improvements incorporated into the subdivision comply with adopted City standards and are designed to preserve the character of the site and surrounding area, minimize visual impact and avoid adverse impacts on surrounding properties and neighborhoods.

The design of streets, streetlights, storm drainage, utilities and other common improvements incorporated into the subdivision comply with adopted City standards and are designed to preserve the character of the site and surrounding area, minimize visual impact and avoid adverse impacts on surrounding properties and neighborhoods because as designed and conditioned, subdivision improvements will comply with City standards, preserve the character of the site and surrounding area, and minimize visual impacts pursuant to mitigation measures 1, 2, 3, 12, 13, 14, 19, 20, 21, 26, and 27 and conditions of approval 5, 8, 9, 22, 28, 32, 43, 47, 51, 55, 57.

i. Street right of way incorporated into the design of the subdivision is based on the following conditions;

1. Steepness of terrain;
2. Depth of cut, amount of cut and fill, height and appearance of retaining walls;
3. Type and quantity of existing and proposed trees and vegetation;
4. Ability to give the appearance of a natural slope after grading and landscaping;
5. Adequacy of off-street parking to compensate for any lack of on-street parking;
6. Adequacy of required turn-around spaces every 500 – 1,000 feet;
7. Adequacy of sight-distances around curves and near driveway entrances;

8. Number of home sites to be served by the street;
9. Potential for future extension of the street.

The project entrance from Happy Valley Road and the single interior access road have been designed to follow the existing contours, avoid steep terrain, and provide for retaining walls varying in height from two to six feet. The project entrance and interior access road have been designed, conditioned, or constructed to adequately serve the three proposed dwellings and comply with Fire District standards. Implementation of mitigation measure 26 will reduce visual impacts of conventional grading and retaining walls by requiring the use of topographic berms, boulders, and natural landscape amenities. Improvements have been made to Happy Valley Road at the project entrance to ensure adequate sight distance. Proposed building sites are large enough to accommodate the two required off-street parking spaces per dwelling unit.

j. The design of the subdivision and the proposed development provide adequate emergency vehicle access, including turn-around space, to each building site and surrounding undeveloped areas, while protecting valuable trees, minimizing grading and preserving the natural hillside character of the site and vicinity.

The design of the subdivision and the proposed development provide adequate emergency vehicle access, including turn-around space, to each building site and surrounding undeveloped areas, while protecting valuable trees, minimizing grading and preserving the natural hillside character of the site and vicinity because as proposed or conditioned, the design of the subdivision and proposed development will provide paved drives and turn-around space that are of a sufficient width and size to allow easy access for emergency service providers pursuant to conditions of approval 32, 33, and 34.

Findings for Approval of a Subdivision (§66474 Gov't Code)

1. That the proposed map is consistent with applicable general and specific plans.

2. That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans.

Findings 1 and 2 can be met because the proposed subdivision is located in an area designated by the General Plan as Low Density Single Family Residential which allows up to two dwelling units per acre and the subdivision is designed at one dwelling unit per six acres. The design of the subdivision and improvements will protect the character and pattern of growth by complying with Fire District safety requirements and City of Lafayette engineering standards pursuant to conditions of approval 24, 33, and 35. Development is clustered to maximize the amount of land to be retained as open space and provides for a public trail system. There are no specific plans applicable the project.

3. That the site is physically suitable for the type of development.

The site is physically suitable for the type of development because as designed, the project is clustered on the lower elevations of the project site, preserves natural features such as oak woodland habitat and the special status Diablo rockrose, and retains 45 percent of the land in open space protected by a scenic and conservation easement. The project has either been designed or conditioned (6, 8, 24, 32, 45, 46, 59, 60, 61, 63, and 70) to insure that all necessary public and private improvements are made.

4. That the site is physically suitable for the proposed density of development.

The site is physically suitable for the proposed density of development because the project only proposes three dwelling units where a possible twelve dwelling units could be allowed by the R-40 and H-O-D zoning designations. Mitigation measures 19, 20, 21, 25, 26, and 27 will ensure that new homes are compatible with the neighborhood and comply with the City's adopted Residential Design Review Guidelines.

5. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

The design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because potential impacts to fish, wildlife and their habitats were analyzed in the FSEIR. The FSEIR determined that any potentially significant impacts could be mitigated to a less than significant level with implementation of mitigation measures 1, 19, 21, 21, 22, 23, and 24.

6. That the design of the subdivision or type of improvements is not likely to cause serious public health problems.

The design of the subdivision or type of improvements is not likely to cause serious public health problems because this is infill development adjacent to existing residential development with supporting infrastructure and public services. Potential impacts related to unstable soils, traffic, and drainage have been evaluated in the FSEIR and will be reduced to less than significant levels through implementation of mitigation measures 2, 3, 4, 5, 10, 11, 12, 13, 14, 25, and 28. Conformance with conditions of approval, including compliance with Contra Costa Fire Protection District and Central Contra Costa Sanitary District standards will ensure that the project does not create a hazard or cause a serious public health problem.

7. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because the project will provide for an enhanced trail easement for connection to the local trail system. There are no public or service agency easements on the property that will be adversely affected by the proposed subdivision or development of three single family residences in the future.

RECOMMENDATION

Adopt City Council Resolution 2008-037.

ATTACHMENTS

A. City Council Staff Report, July 28, 2008
B. Tentative Map, Subdivision MS504-87, received August 5, 2008
C. Preliminary Grading, Drainage, and Improvement Plans
D. Letter from David Bowie, dated July 30, 2008.
E. Letter from Edward Shaffer, dated July 28, 2008
F. Letter from Edward Shaffer, dated August 4, 2008
G. Memorandum from Tony Coe, dated August 4, 2008

City of Lafayette Staff Report

For: City Council

By: Christine Sinnette, Senior Planner

Date Written: July 21, 2008

Meeting Date: July 28, 2008

Subject: **MS504-87CCII – ROBIN AND KRIS LEAMY (APPLICANTS & OWNERS), R-40 ZONING**: Request for a minor subdivision to divide 19.23 acres into three lots for residential development pursuant to Chapter 6-20 and Chapter 6-30 of the Lafayette Municipal Code (LMC), located at 4123 Happy Valley Road, APN 247-010-019 and 020 ("Project"). City Council review and consideration of a supplement to an environmental impact report, the Project, and conditions of approval.

EXECUTIVE SUMMARY

Application MS504-87CCII was originally proposed in 1987. Review of the original subdivision application in 1987 included the preparation of an environmental impact report (EIR). A Final EIR was certified by the Planning Commission in 1988 even though the application was ultimately denied by the City Council. The application was re-activated as a 3-lot subdivision by new property owners in 2005. In 2006 and 2007, the Planning Commission and City Council considered MS504-87CCII and an Addendum EIR.

In August 2007, the application was put on hold pending the outcome of additional geotechnical studies. The studies confirmed that a previously identified landslide encompassed a larger area than originally thought and the applicants revised the project to include the repair of the larger landslide area. Because the project now includes more remedial earthwork, the City determined that a supplement to the previous Final EIR should be prepared rather than an Addendum. A supplemental EIR (SEIR) was completed on June 10, 2008. The Planning Commission held a public hearing on the project, SEIR, and draft conditions of approval and recommended that the City Council adopt the SEIR and approve MS504-87CCII and the conditions of approval. Staff is recommending that the City Council conduct a public hearing, consider the SEIR, the project, and conditions of approval, and continue the matter to the meeting of August 11, 2008.

PROJECT HISTORY

In 1987, property owner John Barsell submitted a minor subdivision (MS504-87II) for a subdivision of 18.2 acres into three lots[1] with access from Happy Valley Road. This application was denied by the City Council on June 12, 1989. While there were other concerns and unresolved issues, the principal reason for denying the subdivision was a problem with safe access. The property owner, John Barsell, filed a

[1] Parcel A – 2.55 acres, Parcel B – 13.82 acres, and Parcel C – 2.34 acres

lawsuit and in February 1990, the Superior Court remanded MS504-87 back to the City Council to consider a revised access known as the "gate approach"[2]. The City Council finally heard MS504-87II again on October 13, 1992 and denied the subdivision. Mr. Barsell petitioned the Council for reconsideration of the denial on October 20, 1992. In order to avoid the cost of further litigation and to resolve the dispute over the subdivision application, the City and Mr. Barsell entered into a Mutual Compromise Settlement and Release Agreement (Agreement). See Attachment C.

Pursuant to Term 1 of the Agreement, the City Council held a public hearing on July 25, 1994 to reconsider its 1992 denial of the subdivision. By a vote of 5-0, the Council preliminarily approved the subdivision[3] subject to the following conditions:

1. That the intersection at Happy Valley Road shall comply with the Caltrans standards for site distance for traffic traveling at 25 miles per hour.

2. That an encroachment permit shall be obtained from the City of Orinda.

3. When the encroachment permit is obtained, that the matter be brought back to the Planning Commission for review and development of appropriate conditions at a public hearing with a recommendation to the City Council.

4. The City Council will make the final decision on the subdivision application.

In July 2004, Barsell submitted an encroachment permit application to the City of Orinda. An encroachment permit (06-130) was subsequently issued by Orinda which included improvements to the Happy Valley Road right-of-way. The improvements have been completed and accepted by the City of Orinda. Since conditions 2 and 3, above were met, the minor subdivision was re-activated in 2005 and staff followed the City Council directive to prepare conditions of approval for MS504-87CCII for review by the Planning Commission.

On December 7, 2006, the Planning Commission held a public hearing on this project including the review of an addendum to a final environmental impact report (AEIR) and draft conditions of approval. The Commission had no specific comments on the AEIR and requested revisions to the conditions of approval. At their meeting of February 1, 2007, the Commission finalized the conditions of approval and AEIR and forwarded them to the City Council. See Attachment B – Planning Commission minutes.

After the February 1, 2007 Planning Commission meeting, it was decided that due to concerns about the scope and adequacy of the applicant's geotechnical reports, that a peer review of the geotechnical reports and comment letters from the public should be conducted. The City contracted with Alan Kropp & Associates, Inc., geotechnical engineers. Alan Kropp & Associates (AKA) conducted peer reviews for the City during preparation of the 1988 FEIR. The City Council reviewed the project, the recommended conditions of approval, and the AEIR at their meeting of April 23, 2007 but made no determination on the project because the peer review had not been completed. See Attachment C – City Council minutes. The matter was eventually removed from the City Council agenda pending completion of additional geotechnical studies.

Supplemental geotechnical studies completed by the applicant noted that a previously identified landslide encompassed a larger area than originally thought. Since new geotechnical information was now available and the project was revised to include the complete repair of two on-site landslides, staff

[2] The access shown on the current plan.
[3] Tentative Plan Subdivision MS504-87, prepared by Schell and Martin, Inc., dated received June 1, 1992

determined that a Supplement to an EIR (SEIR) should be prepared rather than the Addendum. A Draft SEIR was prepared by City staff addressing the current plan. A public hearing before the Planning Commission on the Draft SEIR was conducted on June 19, 2008. See Attachment D – Planning Commission minutes. The Draft SEIR, project, and proposed conditions of approval were reviewed by the Commission and the matter continued to their meeting of July 3, 2008. At the July 3 meeting, the Commission approved by a vote of 4-0-1 (Mitchell recused) a motion to forward a recommendation to the City Council to: 1) Adopt the supplement to an environmental impact report and mitigation measures contained therein; and 2) Approve MS504-87CCII and the conditions of approval.

PROJECT DESCRIPTION

The subject property is now owned by Robin and Kris Leamy. Parcels A, B (former Parcel D), and C continue to be 2.55, 13.82, and 2.34 net acres, respectively. However, unlike the previous owner, the new owners are only proposing a three-lot subdivision and wish to retain Parcel B for their residence. The only changes from the 1992 tentative plan are a slight realignment of the interior access road and conservation easement to better conform to the topography and the shifting of a proposed homesite on Parcel A. The conservation easement has been increased from 259,148 square feet to 259,258 square feet and now includes the riparian vegetation at the upper end of the western drainage. The homesite on Parcel A has been shifted west closer to the interior access road and farther away from the downhill homes on Soares Lane. See Attachment E – Aerial Photograph of Project Site and Attachment F – Tentative Map.

All three lots will have access from an interior 20-foot wide, paved private road. A 310± foot long retaining wall two to three feet high will be required on the east side of the road. A 400± foot long retaining wall two to six feet high will be required on the west side of the road. The private road will provide access to Happy Valley Road, a public road within the City of Orinda. Prior to accessing Happy Valley Road, the access road crosses property owned by Orinda Downs HOA. The applicants have acquired an easement through the Orinda Downs HOA property so there is now direct access between the project site and Happy Valley Road.

The current project now includes the complete repair of two on-site landslides and a swale containing a complex of landslide debris and colluvial deposits (see Attachment G), provision of an on-site stormwater drainage system, and trail easement dedication. It is anticipated that remedial earthwork will involve approximately 79,500 cubic yards of soil. The grading operation would proceed in stages, with cyclical placement and removal of an on-site stockpile in the northern portion of Parcel B. This area can accommodate a stockpile of approximately 24,400 cubic yards. See Attachment H – Site Plans.

CONSISTENCY WITH THE GENERAL PLAN

The General Plan land use designation for the property is Low Density Single Family Residential which allows up to two dwelling units per acre. The property has had this General Plan designation since at least 1981. The proposed project complies with the density allowed by this designation. The project would create three lots for single-family residential development of 2.34, 2.55, and 13.82 acres in size. The project would also be consistent with General Plan goals regarding preservation of open space and other scenic features. Residential development would be located on lots twice the minimum size allowed in the R-40 zoning district with approximately six acres of Parcel B continuing to be preserved by a scenic easement. An existing 10-foot trail easement intending to serve as part of a citywide trail system will be expanded.

CONFORMANCE WITH ZONING REGULATIONS

The property is zoned R-40, Single-family Residential District-40. This zoning designation allows one detached dwelling unit per 40,000 square-foot lot and the accessory structures and uses normally auxiliary to it. This property has been zoned R-40 since at least 1981. This zoning designation can allow up to 20 lots/dwelling units on this 19.23-acre property. The property is located in the Hillside Overlay District (HOD) and although the R-40 designation can allow up to 20 lots, density for properties in the HOD may be reduced based on the average slope of the property. In this case, the average slope of the property is 24 percent and according to the lot area and density table in section 6-2043, the allowed density is 12 lots. Only three lots are being proposed so the project is well below the allowed density.

As can been seen in the table below, the three lots conform to the development standards of the R-40 zoning district.

Development Standard	Required	Parcel A	Parcel B	Parcel C
Lot Area	40,000 square feet	110,078 s.f. (2.55 ac.)	601,999 s.f. (13.82 ac.)	101,930 s.f. (2.34 ac.)
Lot Width	140 feet average width	250 feet	600+ feet	225 feet
Lot Depth	140 feet deep	400+ feet	600+ feet	350+ feet

COMPLIANCE WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Review of the original subdivision application in 1987 included the preparation of an environmental impact report (EIR). The EIR analyzed not only the proposed four-lot subdivision[4] but also the potential for future subdivision of the 13.82 acre Parcel D into four or five lots. Even though the application was ultimately denied by the City Council, the Final EIR (FEIR) was certified by the Planning Commission on October 13, 1988.

The project re-activated in 2005 is less dense than the one analyzed in the certified 1988 EIR and has been determined by the City to be consistent with the FEIR. However, given the age of the FEIR and minor revisions to the proposed project, the City determined that an Addendum to the FEIR should be prepared to evaluate the minor revisions and to update the environmental baseline. Some members of the public, expressing concern regarding the age of the 1988 FEIR, objected to the Addendum procedure. Though the age of the certified FEIR, by itself, would not necessarily affect its adequacy for reviewing the current proposed project, during preparation of the Addendum, new information about on-site geotechnical issues became available. The City requested the applicants to provide supplemental geotechnical studies which noted that a previously identified landslide encompassed a larger area than originally thought. This landslide had the potential to impact the access road to Parcel C.

[4] The original application for MS504-87 was for the subdivision of 20.6 acres into four lots. Subsequent to the denial of MS504-87, the City approved MS503-90 for a two-lot subdivision. The subdivision "removed" proposed Parcel B. When MS504-87CCII was resubmitted in 1992, the map was revised to reflect only three new lots, Parcel A (former Parcel A), Parcel B (former Parcel D), and Parcel C (former Parcel C).

Although the current project includes new geotechnical information, according to section 15163(a) of the *CEQA Guidelines*, the City may choose to prepare a supplement to an EIR if only minor additions or changes would be necessary to make the previous EIR adequately apply to the project in the changed situation. Staff determined that since only minor additions or changes are necessary to make the previous FEIR adequate, a Supplement to an EIR (SEIR) could be prepared.

To determine the scope of the Draft SEIR, the City prepared an Initial Study based on the current project. The purpose of the Initial Study is to assist in the preparation of the SEIR by focusing the SEIR on the effects determined to be potentially significant, and identifying the effects determined not be significant and explaining the reasons for those determinations. The Initial Study determined that there could be potentially significant impacts related to aesthetics, air quality, geology and soils, hydrology and water quality, and transportation and traffic from the current plan. Environmental effects found not to be significant are those related to agricultural resources, biological resources, cultural resources, hazards and hazardous materials, land use planning, mineral resources, noise, population and housing, public services, recreation, utilities and service systems. (The Initial Study can be found in Appendix A of the SEIR)

A Draft SEIR was prepared by City staff addressing the current plan which, though a smaller overall project, now includes more remedial earthwork. The SEIR evaluates the potential impacts associated with the current plan and updated baseline reports and identifies the additions or changes necessary to make the previous EIR adequately apply to the current plan. The FEIR was used as a basis for information about the setting of the project site and surrounding area, and for thresholds for determining impact significance. The FEIR is reproduced in its entirety in Appendix B of the SEIR.

The FEIR and SEIR are informational documents prepared to inform City decision-makers and the public of the significant environmental effect of the project, possible ways to minimize the significant effects, and reasonable alternatives to the project. The SEIR concludes that the project would result in less than significant impacts related to noise. Although the FEIR and SEIR identified that the project could result in significant impacts on Planning and Policy Context, Traffic and Circulation, Geotechnical Considerations, Storm Drainage and Runoff, Biologic and Habitat Considerations, and Visual, Cultural, and Other Environmental Considerations, it concludes that all project impacts can be mitigated to less than significant levels. The SEIR also includes sections on the CEQA process, project description and objectives, cumulative and growth-inducing impacts, and alternatives. The SEIR revises the FEIR through supplementation.

The Draft SEIR was submitted to the State Clearinghouse and approved for a 30-day public review period which ended on July 14, 2008. It should be noted that CEQA requires public review of environmental documents but does not require public hearings. Written and oral comments received on the Draft SEIR will be addressed in responses to comments which will also indicate whether any changes to the Draft SEIR resulting from public or agency input are necessary. Responses to comments and the Final SEIR will be submitted to the City Council for review at a subsequent public hearing.

PUBLIC NOTIFICATION

A Notice of Availability of the SEIR was published in the *Contra Costa Times* and mailed to property owners within 300 feet of the project site and parties requesting notice on June 12, 2008. Copies of the Draft SEIR are available for review at the City Offices, Lafayette Library, and on the City's website. Notice of this hearing before the City Council was mailed to property owners within 300 feet of the subject property and those parties requesting notification on July 17, 2008 and published in the *Contra Costa Times*.

STAFF ANALYSIS AND COMMENTS

This current project is in substantial compliance with the 1992 tentative map preliminarily approved by the City Council in 1994. The Planning Commission has completed review of the project, draft conditions of approval and Draft SEIR and is recommending adoption of the SEIR and approval of the project subject to the mitigation measures and conditions of approval.

As it did with the Planning Commission, staff suggests the City Council focus its review on whether or not the SEIR sufficiently identifies the potential environmental impacts of the project and methods to avoid or mitigate those impacts and supplementation of the FEIR. Adequacy should be considered in terms of what is reasonable in light of factors such as magnitude of the project, the severity of its likely environmental impacts, and geographic scope of the project. CEQA does not require that conclusive or exhaustive tests or studies be performed for EIRs. *CEQA Guidelines* acknowledge that there may be disagreement among experts but disagreement does not make an EIR inadequate. This SEIR presents all relevant information, summarizes the main points of disagreement among the experts, and reaches a conclusion regarding significance and mitigation.

The City Council should also review the project and draft conditions of approval (see Attachment I). The conditions and mitigation measures in Attachment I are the ones recommended for approval by the Planning Commission on July 3, 2008. Some mitigation measures as identified in the SEIR have been revised or eliminated. These revisions will be noted in the Final SEIR. Attachment J is the July 3 Planning Commission staff report explaining the reason for the revised mitigation measures.

It should also be noted that during this application process, the City's Traffic Consultant, Chuck DeLeuw, the Trails subcommittee of the Lafayette Parks, Trails, and Recreation Commission, and the City of Orinda reviewed the project.

Mr. DeLeuw's comments centered on the need for signing and pavement striping of Happy Valley Road and have been included in the conditions of approval. The Trails subcommittee stated that the existing 10-foot trail easement bisecting this property is an integral part of the West Trail. After walking the project site, they requested a realignment of the existing easement to provide for a better trail experience and a widening of the easement to the current standard of 20 feet. The tentative map (Attachment F) shows the realignment of the easement. Expansion of the trail easement to 20 feet is being made a condition of approval. The City of Orinda provided comments on access from Happy Valley Road and the need for a hydrologic study. Their comments have also been included in the conditions of approval.

FINDINGS

In order to approve MS504-87CCII, the City Council will have to make a series of findings related to the subdivision of land and development in the hillside overlay district. The findings are listed below. Analysis of the project's conformance with these findings will occur in a subsequent staff report, however, based on staff's review of the project to date and the information contained in the SEIR, it is staff's opinion that the City will be able to make the proper findings to approve MS504-87CCII.

The findings for approval of a minor subdivision are the same as those for granting a land use permit (§6-215, §6-216).

1. The proposed subdivision will not be detrimental to the health, safety and general welfare of the city.

2. The proposed subdivision will not adversely affect the orderly development of property within the city.

3. The proposed subdivision will not adversely affect the preservation of property values and the protection of the tax base within the city.

4. The proposed subdivision is consistent with the general plan and each element of it and will not adversely affect the policies and goals set forth in the general plan.

5. The proposed subdivision will not create a nuisance or enforcement problem within the neighborhood.

6. The proposed subdivision will not encourage marginal development within the neighborhood.

7. The proposed subdivision is consistent with the purpose section of the zoning district in which it is located.

Findings for Approval of a Subdivision (§66474 Gov't Code)

1. That the proposed map is consistent with applicable general and specific plans.

2. That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans.

3. That the site is physically suitable for the type of development.

4. That the site is physically suitable for the proposed density of development.

5. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat.

6. That the design of the subdivision or type of improvements is not likely to cause serious public health problems.

7. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision.

Findings Required for Approval of Subdivision in the Hillside Overlay District (§6-2071 LMC)

a. The design of the subdivision and the proposed development are derived from naturally contoured sites of reasonably regular configuration, do not create building sites on slopes exceeding 30 percent nor result in the need for construction of primary structures outside the areas of 30 percent or less slopes.

b. The design of the subdivision and the proposed development will result in each structure being substantially concealed, as required by LMC Section 2-2048, when viewed from lower elevations from publicly owned property (including freeways, roadways, open space, parks and trails), using the viewing elevation map as a guide to establish locations from which views are considered.

c. The design of the subdivision provides for a trail or portions of trails in conformance with the City's adopted Master Trails Map or an adopted regional trail plan, and the trail is dedicated and conditioned for improvement in accordance with adopted standards.

d. The design of the subdivision and proposed development use clustering or other site planning techniques to preserve hillsides, ridgelines and open space, minimize grading and impacts on wildlife habitats to the extent feasible, and provide for the preservation of on-site open space and vegetation, terrain, scenic vistas, trail corridors, streams or water courses, or other areas of ecological significance through dedication, easement, land trust or suitable regulation.

e. The design of the subdivision and the proposed development are arranged so that no portion of the lot exceeding a slope of 35 percent, is proposed to be altered by grading removal or alteration of a natural feature, the removal of vegetation or other activity related to the preparation of the site for development, except fire protection, or other measures necessary for public safety, slope or geologic stabilization or the provision of a trail in conformance with the City's adopted Master Trails Map or an adopted regional trail plan or where the Planning Commission finds that an exception is necessary to provide the least intrusive or damaging access to an approved building site.

f. The development, including site design and the location and massing of all structures and improvements, will preserve the open and uncluttered topography of the City, and not interfere with a ridgeline corridor or compromise the open space or scenic character of the corridor.

g. Each proposed house location and the location of each related structure is sited to minimize loss of privacy and not unduly impact, restrict or block significant views.

h. The design of streets, streetlights, storm drainage, utilities and other common improvements incorporated into the subdivision comply with adopted City standards and are designed to preserve the character of the site and surrounding area, minimize visual impact and avoid adverse impacts on surrounding properties and neighborhoods.

i. Street right of way incorporated into the design of the subdivision is based on the following conditions;

1. Steepness of terrain;
2. Depth of cut, amount of cut and fill, height and appearance of retaining walls;
3. Type and quantity of existing and proposed trees and vegetation;
4. Ability to give the appearance of a natural slope after grading and landscaping;
5. Adequacy of off-street parking to compensate for any lack of on-street parking;
6. Adequacy of required turn-around spaces every 500 – 1,000 feet;
7. Adequacy of sight-distances around curves and near driveway entrances;
8. Number of home sites to be served by the street;
9. Potential for future extension of the street.

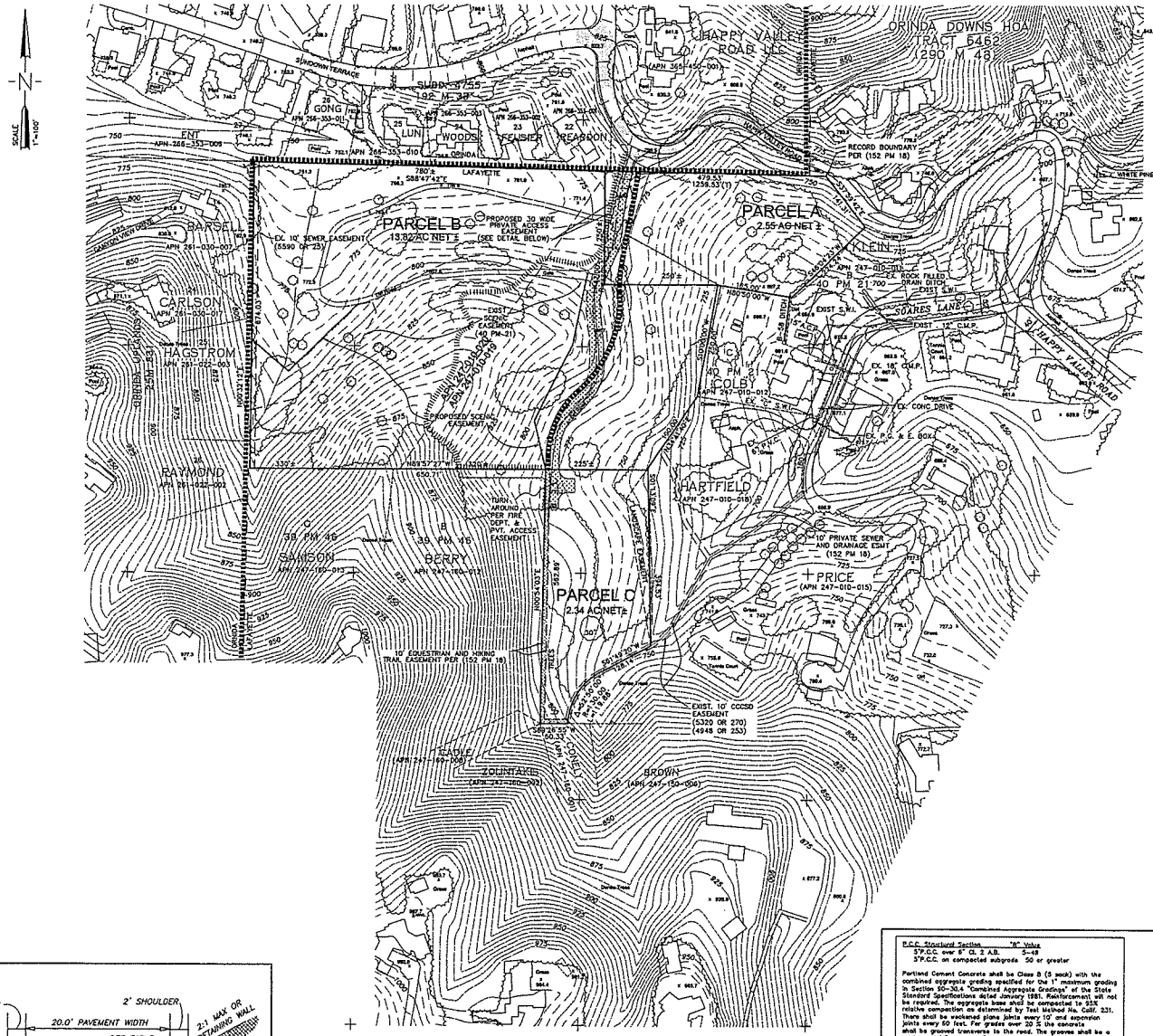
j. The design of the subdivision and the proposed development provide adequate emergency vehicle access, including turn-around space, to each building site and surrounding undeveloped areas, while protecting valuable trees, minimizing grading and preserving the natural hillside character of the site and vicinity.

RECOMMENDATION

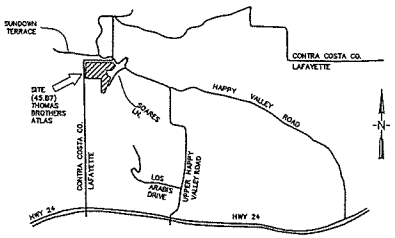
Conduct public hearing, consider supplement to an environmental impact report, the project, and conditions of approval, and continue the matter to the meeting of August 11, 2008.

ATTACHMENTS *(Not Included)*

A. Mutual Compromise Settlement and Release Agreement
B. Planning Commission Minutes – February 1, 2007
C. City Council Minutes – April 23, 2007
D. Draft Planning Commission Minutes – June 19, 2008
E. Aerial Photograph of Project Site
F. Tentative Map, Subdivision MS504-87, received May 6, 2008
G. Site Plan and Field Investigations
H. Preliminary Grading, Drainage, and Improvement Plans
I. Draft Conditions of Approval
J. Planning Commission Staff Report – July 3, 2008



VICINITY MAP
(1"= 2200'±)



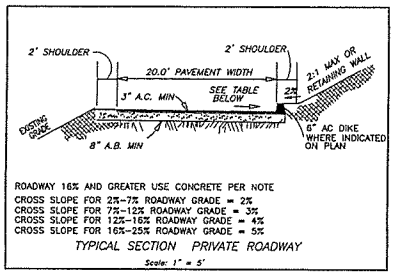
Lafayette, California

GENERAL NOTES

SITE:	ALL OF PARCEL 'D' AS SHOWN ON THE MAP OF SUBDIVISION MS 2-74, FILED SEPTEMBER 25, 1975 IN BOOK 40 OF PARCEL MAPS, AT PAGE 21, CONTRA COSTA COUNTY RECORDS. TOPOGRAPHY PER TENTATIVE MAP FOR SUBD. MS 504-87, DATED APRIL 1987
OWNER:	ROBIN LEAHY
ENGINEER:	SCHELL & MARTIN, INC. CIVIL ENGINEERING & LAND SURVEYING 3377 MT. DIABLO BLVD. LAFAYETTE, CALIFORNIA 94549 (925) 283-8111
ASSESSOR NO.:	A.P.N. 247-010-018, 020
EXISTING ZONING:	(R40) SINGLE FAMILY RESIDENTIAL
PROPOSED USE:	(R40) SINGLE FAMILY RESIDENTIAL
AREA:	19.23 ACRES ± TOTAL (RECORD)
UTILITIES:	WATER : E.B.M.U.D. SEWER : C.C.C.S.D POWER : P.G.& E. TELEPHONE: PACIFIC BELL
CONTOUR INTERVAL:	TEN (10) FEET
BASIS OF ELEVATION:	CONTRA COSTA COUNTY DATUM

LEGEND

	CITY/COUNTY BOUNDARY
	LOT BOUNDARY
500	EXISTING CONTOUR
	10' EQUESTRIAN AND HIKING TRAIL EASEMENT PER (152 PM 18)
	DENOTES 10' TRAIL EASEMENT PER (152 PM 18) TO BE ABANDONED.
P.U.E.	PUBLIC UTILITY EASEMENT
S.S.E.	SANITARY SEWER EASEMENT.
S.W.I.	STORM WATER INLET
	DENOTES PROPOSED 30' WIDE PRIVATE ACCESS EASEMENT
	DENOTES PROPOSED 10' WIDE TRAIL EASEMENT

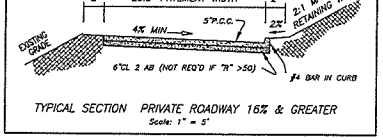


ROADWAY 16% AND GREATER USE CONCRETE PER NOTE
CROSS SLOPE FOR 2%-7% ROADWAY GRADE = 2%
CROSS SLOPE FOR 7%-12% ROADWAY GRADE = 3%
CROSS SLOPE FOR 12%-16% ROADWAY GRADE = 4%
CROSS SLOPE FOR 16%-25% ROADWAY GRADE = 5%

TYPICAL SECTION PRIVATE ROADWAY
Scale: 1" = 5'

P.C.C. Standard Section "B" Value
5"P.C.C. over 8" Cl. 2 A.B. 5-48
5"P.C.C. on compacted subgrade 50 or greater

Portland Cement Concrete shall be Class B (5 sack) with the combined aggregate grading specified for the 1" maximum grading in Section 90-10.4 "Combined Aggregate Gradings" of the State Standard Specifications dated January 1981. Reinforcement will not be required. The aggregate base shall be compacted to 95% relative compaction as determined by Test Method No. Calif. 231. There shall be weakened plane joints every 10' and expansion joints every 60 feet. For grades over 20 % the concrete shall be grooved transverse to the road. The grooves shall be a minimum 1/4" deep at 4" maximum intervals.



TYPICAL SECTION PRIVATE ROADWAY 16% & GREATER
Scale: 1" = 5'

RECEIVED
AUG 05 2008
CITY OF LAFAYETTE
PLANNING DEPT

REGISTERED PROFESSIONAL ENGINEER
EDWARD C. MARTIN
No. 54357
EXP. 12-31-09
CIVIL
STATE OF CALIFORNIA

REV.:8-05-08
REV.: 4-25-08
REV.: 3-28-08

LICENSED LAND SURVEYOR
EDWARD C. MARTIN
EXP. 6-30-10
No. 6690
STATE OF CALIFORNIA

TENTATIVE MAP
SUBDIVISION MS 504-87
RESUBDIVISION OF PARCEL D
40 PM 21
CITY OF LAFAYETTE
CONTRA COSTA COUNTY, CALIFORNIA

SCHELL AND MARTIN, INC.
LAND SURVEYING AND CIVIL ENGINEERING
3377 MT. DIABLO BOULEVARD
LAFAYETTE, CALIFORNIA 925-283-8111

FOR: ROBIN LEAHY

BY: HGM FB: 509 PG: 1-8,68-75 JOB # 430-05A
DATE: 6-15-05 SCALE: 1" = 100' SHEET 1 OF 1

ATTACHMENT B

TEMPORARY STOCKPILE AREA
PER PURCELL & RHOADES & ASSOCIATES
APPROXIMATE STOCKPILE VOLUME = 24,400 CUBIC YARDS±
PARCEL B
13.82 AC NET ±
PROPOSED BUILDING SITE (SHADED AREA)
176,670 SF±
AV. SLOPE = 16.9%
PROPOSED RETENTION BASIN TO MITIGATE EXISTING DRAINAGE CONDITION AND CAPTURE RUNOFF FROM PROPOSED DEVELOPMENT (SIZE TO BE DETERMINED BY HYDROLOGIC CALCULATIONS
PROPOSED RESIDENCE ON PARCEL B TO BE LOCATED AWAY FROM SLIDE PER SOILS REPORT
EXISTING SCENIC EASEMENT (152 PM 18) 259,148 S.F.± TOTAL
PROPOSED SCENIC EASEMENT 259,258 S.F.± TOTAL
24,390 SQ.FT±
24,500 SQ.FT±
PROPOSED 20' WIDE ASPHALT DRIVE MAXIMUM SLOPE = 15.5%
PROPOSED 10' WIDE TRAIL EASEMENT
10' WIDE PUBLIC TRAIL EASEMENT (152 PM 18)
PROPOSED 30' WIDE ACCESS & UTILITY EASEMENT
PROPOSED RETAINING WALL
APPROX. LOCATION 5-36" PINES
APPROXIMATE SUBDRAIN LOCATION PER PURCELL RHOADES
APPROXIMATE WORK AREA MAXIMUM VOLUME SCENARIO PER PURCELL RHOADES
EXISTING 10' WIDE TRAIL EASEMENT TO BE ABANDONED
CALCULATED STRUCTURE SETBACK LINE
25' SETBACK LINE
PROPOSED 30' WIDE ACCESS AND UTILITY EASEMENT
PROPOSED DRIVEWAY TURNOUT TO PARCEL "B"
DIRECT ROAD RUNOFF TO PROPOSED GRASSY LINED SWALE
EXISTING DIRT ROAD
EXISTING 1' WIDE, 2' DEEP ROCK LINED CHANNEL
EX. 10' SEWER EASEMENT (5590 OR 25)
24" HDPE DRAINS TO CREEK
2' WIDE, 2' DEEP RECTANGULAR ROCK LINED CHANNEL
ROCK SPILLWAY
752 VEY COMMEMORATIVE RANCHO CORNER MONUMENT
6" GRANITE MONUMENT UNDER FENCE RANCHO CORNER
LOT 14 BARSELL APN 261-090-007
LOT 24 CARLSON APN 231-030-017
LOT 25 HAGSTROM APN 231-022-003
LOT 26 RAYMOND APN 231-022-002
LOT 25 LUN APN 266-353-010 TRACT 4755
LOT 24 WOODS APN 266-353-003 (192 M 38)
FEUSIER APN 266-353-002
LOT 22 REARDON APN 266-353-001
PARCEL A
PARCEL B
PARCEL C
39 PM 46 SAMSON
APN 247-010-020
APN 247-010-019
LANDSLIDE
PER P.N.A. REPORT DATED JULY 2007
TURN AROUND PER FIRE DEPT. & PVT. ACCESS EASEMENT
APPROXIMATE SUBDRAIN LOCATIONS PER PURCELL RHOADES
EXISTING EASEMENT
N89°57'22"W 650.70' (T)
350±
320±
N0°54'03"E 30.00'
SEE SHEET 3 OF 3

SEE SHEET 2 OF 3

ARTICLE 5. CREEK SETBACK REQUIREMENTS

6-1641 STRUCTURE SETBACK

(a) AS DEFINED BY SECTION 6-312 AND SECTION 6-355, BUILDINGS AND STRUCTURES SHALL BE SET BACK FROM AN UNIMPROVED CREEK CHANNEL AS FOLLOWS:

1) CHANNEL DEPTH OF 0-21 FEET. IF THE SIDE SLOPES OF THE CHANNEL ARE STEEPER THAN 2:1 (HORIZONTAL:VERTICAL), THE WIDTH OF THE STRUCTURE SETBACK IS DETERMINED BY A LINE MEASURED FROM THE TOE OF THE SLOPE A DISTANCE OF TWICE THE CHANNEL DEPTH PLUS THE APPROPRIATE TOP-OF-BANK SETBACK AS FOLLOWS:

CHANNEL DEPTH (FEET)	TOP OF BANK SETBACK MINIMUM WIDTH (FEET)
0-5	12 EACH SIDE
6-12	15 EACH SIDE
12-18	18 EACH SIDE
18-21	21 EACH SIDE

IF THE SIDE SLOPES OF THE CHANNEL ARE FLATTER THAN 2:1 (HORIZONTAL:VERTICAL) THE STRUCTURE SETBACK IS THE APPROPRIATE SETBACK INDICATED IN THE TABLE ABOVE, MEASURED FROM THE TOP OF THE BANK.

2) CHANNEL DEPTH EXCEEDING 21 FEET. IF THE DEPTH OF THE CHANNEL EXCEEDS 21 FEET, THE WIDTH OF THE STRUCTURE SETBACK IS DETERMINED BY MEASURING FROM THE TOE OF THE SLOPE A DISTANCE OF THREE TIMES THE CHANNEL DEPTH.

(b) IF A PARCEL IS SUBJECT TO SUBDIVISION EASEMENTS OR SETBACK REQUIREMENTS UNDER CONTRA COSTA COUNTY ORDINANCE CODE SECTIONS 914-14.406 THROUGH 10.408 WHICH ARE INCONSISTENT WITH SUBSECTION (a) ABOVE, THOSE SUBDIVISION REQUIREMENTS CONTROL.

(c) NO PERMANENT STRUCTURE OTHER THAN FENCES OR DRAINAGE AND EROSION PROTECTION IMPROVEMENTS MAY BE CONSTRUCTED WITHIN THE SETBACK AREA. (ORD. 368 § 1 (PART), 1988)

(H) DEPTH =776.99'-772.49'= 4.5'
DISTANCE = 10.0'
SLOPE = 4.5'/10.0' = 45% ; FLATTER THAN 2:1
SETBACK = (2x4.5') + 12' = 21.0' FROM TOE OF SLOPE

(I) DEPTH = 780.81'-775.78'= 5.0'
DISTANCE = 11.0'
SLOPE = 5.0' / 11.0' = 45% ; FLATTER THAN 2:1
SETBACK = (2x5.0') + 12' = 22.0' FROM TOE OF SLOPE

(J) DEPTH = 782.23'-786.4' = 5.8'
DISTANCE = 20.1
SLOPE = 5.8'/20.1' = 29% FLATTER THAN 2:1
SETBACK = (2x5.8') + 12' = 23.6' FROM TOE OF SLOPE

(K) DEPTH = 796.18'-792.05' = 4.1'
DISTANCE = 23.5
SLOPE = 4.1' / 23.5' = 17% FLATTER THAN 2:1
SETBACK = (2x4.1') + 12' = 20.2' FROM TOE OF SLOPE

(L) DEPTH = 796.25'-792.19' = 4.1'
DISTANCE = 10.0'
SLOPE = 4.1' / 10.0' = 41% FLATTER THAN 2:1
SETBACK = (2x4.1') + 12' = 20.2' FROM TOE OF SLOPE

(M) DEPTH = 793.14' - 791.96' = 1.2'
DISTANCE = 18.0'
SLOPE = 1.2 / 18.0' = 7% FLATTER THAN 2:1
SETBACK = (2x1.2') + 12' = 14.4' FROM TOE OF SLOPE

(N) DEPTH = 779.95' - 775.58 = 4.4'
DISTANCE = 10.5'
SLOPE = 4.4' / 10.5' = 42% FLATTER THAN 2:1
SETBACK = (2x4.4') + 12' = 20.8' FROM TOE OF SLOPE

(O) DEPTH = 776.31' 772.49' = 3.8'
DISTANCE = 9.5'
SLOPE = 3.8 / 9.5' = 40% FLATTER THAN 2:1
SETBACK = (2x3.8') + 12' = 19.6' FROM TOE OF SLOPE

LEGEND

- 779 — EXISTING CONTOUR
- (780) — PROPOSED CONTOUR
- 770.38 — EXISTING SPOT ELEVATION
- DENOTES EXISTING ASPHALT PAVING
- DENOTES NEW PAVEMENT SURFACE
- DENOTES NEW DRIVEWAY TURNOUTS
- DENOTES EXISTING TRAIL EASEMENT TO BE ABANDONED.
- DENOTES BUILDING SITE
- DENOTES SLIDE BUTTRESS
- DENOTES PROPOSED 10' WIDE TRAIL EASEMENT

LANDSLIDE FEATURE PER REPORT BY PURCELL, RHOADES & ASSOCIATES "GEOTECHNICAL STUDY UPDATE, PROPOSED SINGLE FAMILY DEVELOPMENT PARCELS A, B AND C, HAPPY VALLEY ROAD, MS 504-87 APN 247-010-019 & 020, LAFAYETTE, CALIFORNIA PROJECT NO. 12-215/7251-01, JUNE 1, 2008

NOTE: ALL PARCELS TO HAVE WATER RETENTION SYSTEMS THAT WILL LIMIT THE AMOUNT OF RUNOFF FROM IMPERVIOUS SURFACES TO BE NO GREATER THAN RUNOFF THAT WOULD OCCUR IN THE SITE'S NATURAL HILLSIDE STATE. CONTRA COSTA CLEAN WATER C.3 REQUIREMENTS FOR INFILTRATION WILL BE MET FOR IMPERVIOUS SURFACES WITH GRASSY SWALES AND OTHER APPROVED SYSTEMS.

TOPOGRAPHY AND CONTOUR NOTE:
Those portions of this map shown with a 5' contour interval were prepared using computer assisted, photogrammetric methods by HJW GeoSpatial, Inc., in Oakland California. In areas of dense vegetation, accuracy of contours may deviate from accepted accuracy standards.

Trees and drainage information have been field shot within portions of this area and can be identified by a spot elevation and in some instances a description.

Those portions of this map showing a 2' contour interval and spot elevations were field shot by Schell and Martin, Inc.

REV:08-05-08
REV:04-25-08
REV: 3-28-08

PRELIMINARY GRADING, DRAINAGE AND IMPROVEMENT PLANS SUBDIVISION MS 504-87 RESUBDIVISION OF PARCEL D 40 PM 21 CITY OF LAFAYETTE CONTRA COSTA COUNTY, CALIFORNIA

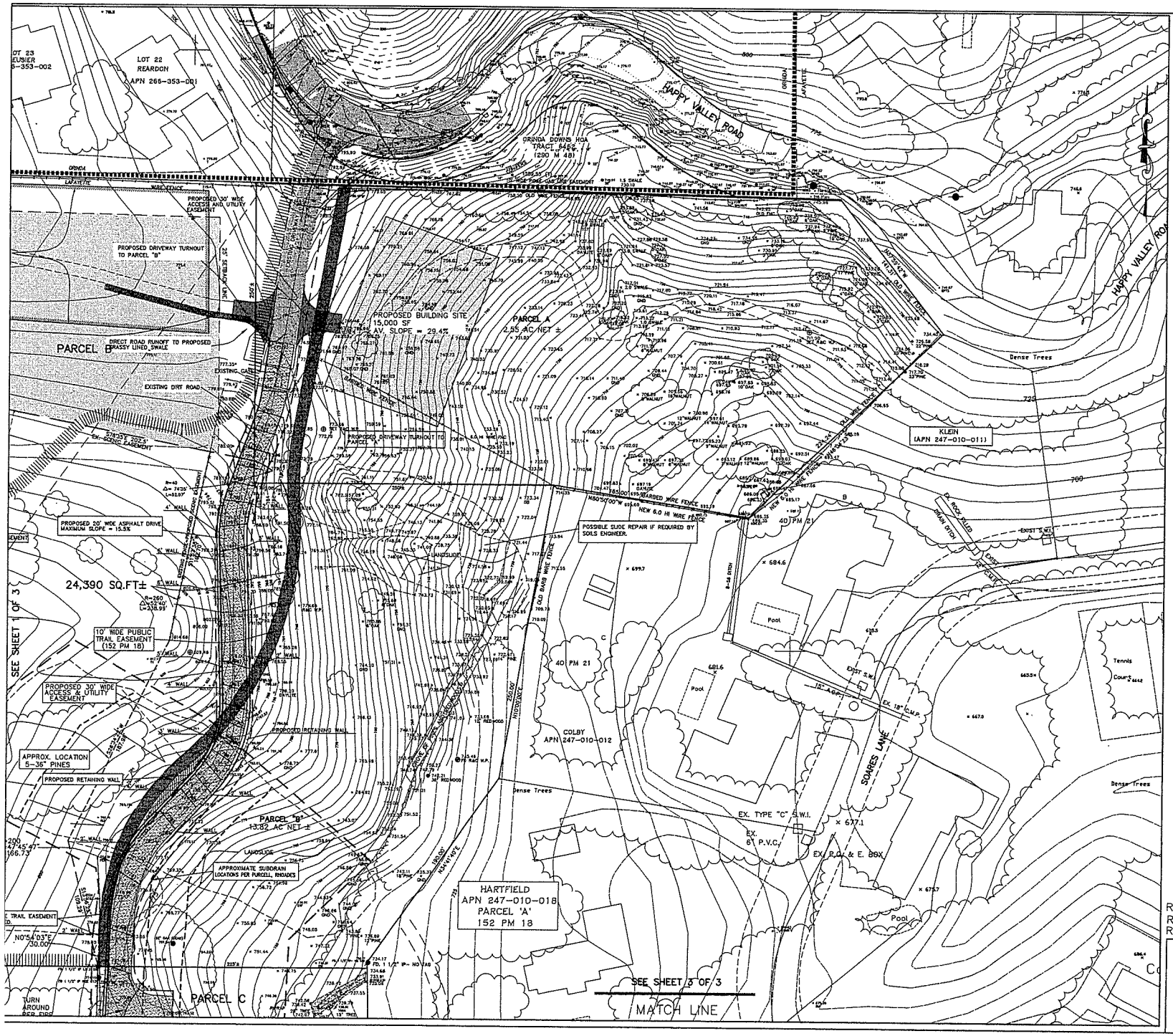
SCHELL AND MARTIN, INC.
LAND SURVEYING AND CIVIL ENGINEERING
3377 MT. DIABLO BOULEVARD
LAFAYETTE, CALIFORNIA 925-283-8111

REGISTERED PROFESSIONAL ENGINEER — RICHARD G. MARTIN — No. 54357 — CIVIL — STATE OF CALIFORNIA
EXP. 12-31-09

FOR: ROBIN LEAHY

BY: HGM FB: 509 PG: 1-8,68-73 JOB# 430-05A
DATE: 06-15-06 SCALE: 1" = 30' SHEET 1 OF 3

ATTACHMENT C



RECEIVED
AUG 0 5 2008
CITY OF LAFAYETTE
PLANNING DEPT.

LEGEND

- EXISTING CONTOUR
- (790) PROPOSED CONTOUR
- 770.25 EXISTING SPOT ELEVATION
- DENOTES EXISTING ASPHALT PAVING
- DENOTES NEW PAVEMENT SURFACE
- DENOTES NEW DRIVEWAY TURNOUTS
- DENOTES EXISTING TRAIL EASEMENT TO BE ABANDON
- DENOTES BUILDING SITE
- DENOTES SLIDE BUTTRESS
- DENOTES PROPOSED 10' WIDE TRAIL EASEMENT

LANDSLIDE FEATURE PER REPORT BY PURCELL, RHOADES & ASSOCIATES "GEOTECHNICAL STUDY UPDATE, PROPOSED SINGLE FAMILY DEVELOPMENT PARCELS A, B AND C, HAPPY VALLEY ROAD, MS 504-87 APN 247-010-019 & 020, LAFAYETTE, CALIFORNIA PROJECT NO. 12-215/7251-01, JUNE 1, 2006

NOTE: ALL PARCELS TO HAVE WATER RETENTION SYSTEMS THAT WILL LIMIT THE AMOUNT OF RUNOFF FROM IMPERVIOUS SURFACES TO BE NO GREATER THAN RUNOFF THAT WOULD OCCUR IN THE SITE'S NATURAL HILLSIDE STATE. CONTRA COSTA CLEAN WATER C.3 REQUIREMENTS FOR INFILTRATION WILL BE MET FOR IMPERVIOUS SURFACES WITH GRASSY SWALES AND OTHER APPROVED SYSTEMS.

TOPOGRAPHY AND CONTOUR NOTE:
Those portions of this map shown with a 5' contour interval were prepared using computer assisted, photogrammetric methods by HJW GeoSpatial, Inc., in Oakland California. In areas of dense vegetation, accuracy of contours may deviate from accepted accuracy standards.

Trees and drainage information have been field shot within portions of this area and can be identified by a spot elevation and in some instances a description.

Those portions of this map showing a 2' contour interval and spot elevations were field shot by Schell and Martin, Inc.

REV:08-05-08
REV:04-25-08
REV: 3-28-08

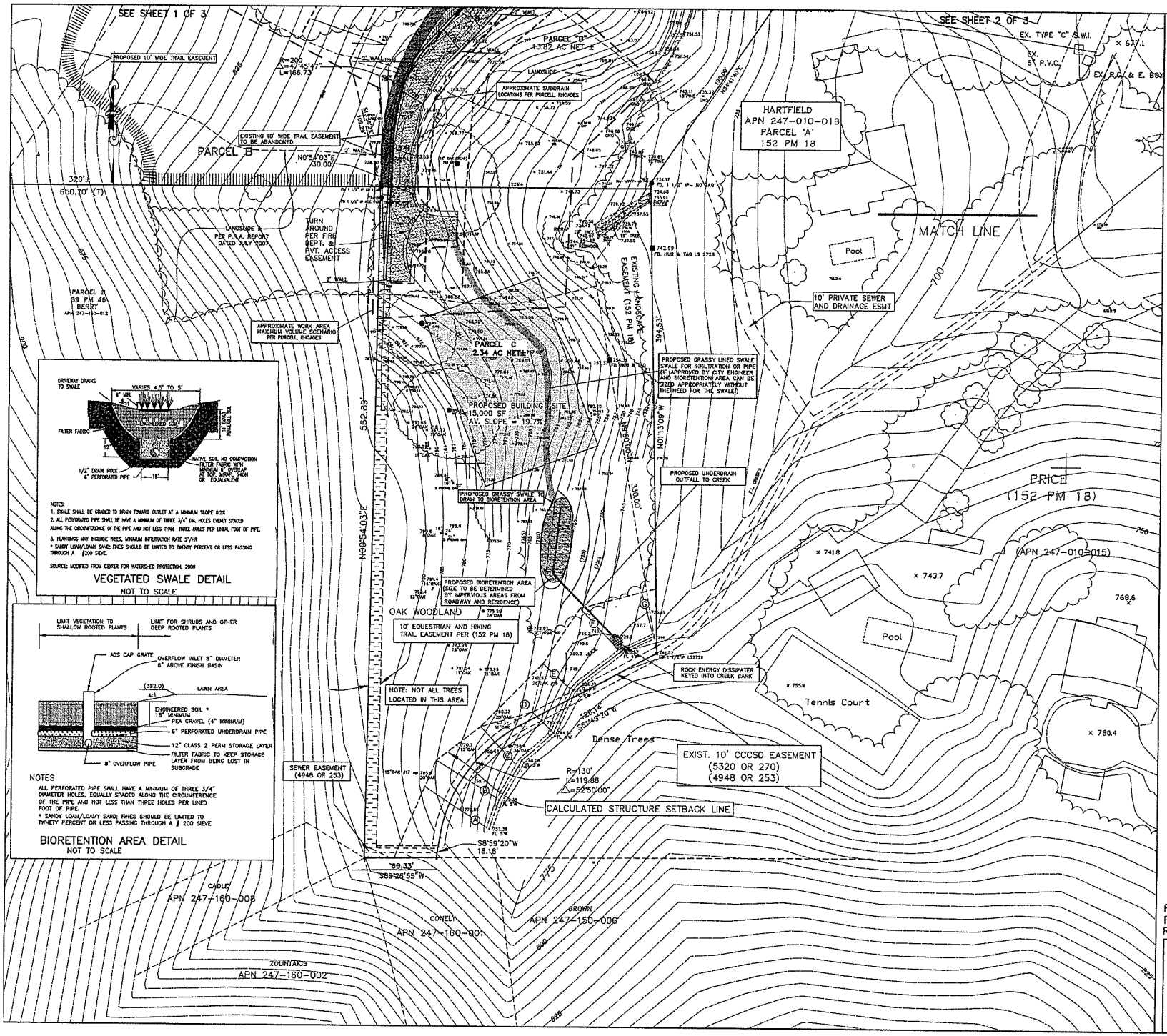
PRELIMINARY GRADING, DRAINAGE AND IMPROVEMENT PLANS
SUBDIVISION MS 504-87
RESUBDIVISION OF PARCEL D
40 PM 21
CITY OF LAFAYETTE
CONTRA COSTA COUNTY, CALIFORNIA

REGISTERED PROFESSIONAL ENGINEER
RICHARD G. MARTIN
No. 54357
EXP. 12-31-09
CIVIL
STATE OF CALIFORNIA

SCHELL AND MARTIN, INC.
LAND SURVEYING AND CIVIL ENGINEERING
3377 MT. DIABLO BOULEVARD
LAFAYETTE, CALIFORNIA 925-283-8111

FOR: ROBIN LEAHY

BY: HCM FB: 509 PG: 1-8,68-75 JOB# 430-05A
DATE: 06-15-08 SCALE: 1" = 30' SHEET 2 OF 3


SEE SHEET 1 OF 3
SEE SHEET 2 OF 3
PROPOSED 10' WIDE TRAIL EASEMENT
EXISTING 10' WIDE TRAIL EASEMENT TO BE ABANDONED
PARCEL B
PARCEL "B" 13.82 AC NET ±
HARTFIELD APN 247-010-018 PARCEL 'A' 152 PM 18
APPROXIMATE SUBDRAIN LOCATIONS PER PURCELL RHOADES
LANDSLIDE PER P.H.A. REPORT DATED JULY 2007
TURN AROUND PER FIRE DEPT. & PVT. ACCESS EASEMENT
APPROXIMATE WORK AREA MAXIMUM VOLUME SCENARIO PER PURCELL RHOADES
PARCEL A 39 PM 46 BERRY APN 247-160-012
PARCEL C 2.34 AC NET ±
PROPOSED BUILDING SITE 15,000 SF AV. SLOPE = 19.7%
EXISTING LANDSLIDE EASEMENT (152 PM 18)
PROPOSED GRASSY LINED SWALE SWALE FOR INFILTRATION OR PIPE (IF APPROVED BY CITY ENGINEER AND BIORETENTION AREA CAN BE SIZED APPROPRIATELY WITHOUT THE NEED FOR THE SWALE)
PROPOSED UNDERDRAIN OUTFALL TO CREEK
PROPOSED GRASSY SWALE TO DRAIN TO BIORETENTION AREA
PROPOSED BIORETENTION AREA (SIZE TO BE DETERMINED BY IMPERVIOUS AREAS FROM ROADWAY AND RESIDENCE)
OAK WOODLAND
10' EQUESTRIAN AND HIKING TRAIL EASEMENT PER (152 PM 18)
NOTE: NOT ALL TREES LOCATED IN THIS AREA
ROCK ENERGY DISSIPATER KEYED INTO CREEK BANK
SEWER EASEMENT (4948 OR 253)
EXIST. 10' CCCSD EASEMENT (5320 OR 270) (4948 OR 253)
CALCULATED STRUCTURE SETBACK LINE
R=130' L=119.68 Δ=52°50'00"
S8°59'20"W 18.18'
89.33' S89°26'55"W
10' PRIVATE SEWER AND DRAINAGE ESMT
MATCH LINE
PRICE (152 PM 18)
(APN 247-010-015)
Pool
Tennis Court
Dense Trees
EX. TYPE "C" S.W.I.
EX. 6" P.V.C.
EX. P.G.& E. Box
CADLE APN 247-160-008
CONELY APN 247-160-001
BROWN APN 247-150-006
ZOUNTAKIS APN 247-160-002
N66°54'03"E 562.89'
N01°13'09"W 394.53'
S01°49'20"W 128.74'
N0°54'03"E 30.00'
320'± 650.70' (T)

NOTES:
1. SWALE SHALL BE GRADED TO DRAIN TOWARD OUTLET AT A MINIMUM SLOPE 0.2%
2. ALL PERFORATED PIPE SHALL BE HAVE A MINIMUM OF THREE 3/4" DIA. HOLES EVENLY SPACED ALONG THE CIRCUMFERENCE OF THE PIPE AND NOT LESS THAN THREE HOLES PER LINEAL FOOT OF PIPE.
3. PLANTINGS MAY INCLUDE TREES, MINIMUM INFILTRATION RATE 5"/HR
* SANDY LOAM/LOAMY SAND; FINES SHOULD BE LIMITED TO TWENTY PERCENT OR LESS PASSING THROUGH A #200 SIEVE.

SOURCE: MODIFIED FROM CENTER FOR WATERSHED PROTECTION, 2000

VEGETATED SWALE DETAIL
NOT TO SCALE

LIMIT VEGETATION TO SHALLOW ROOTED PLANTS
LIMIT FOR SHRUBS AND OTHER DEEP ROOTED PLANTS
ADS CAP GRATE
OVERFLOW INLET 8" DIAMETER 6" ABOVE FINISH BASIN
(392.0)
LAWN AREA
4:1
ENGINEERED SOIL * 18" MINIMUM
PEA GRAVEL (4" MINIMUM)
6" PERFORATED UNDERDRAIN PIPE
12" CLASS 2 PERM STORAGE LAYER
FILTER FABRIC TO KEEP STORAGE LAYER FROM BEING LOST IN SUBGRADE
8" OVERFLOW PIPE

NOTES
ALL PERFORATED PIPE SHALL HAVE A MINIMUM OF THREE 3/4" DIAMETER HOLES, EQUALLY SPACED ALONG THE CIRCUMFERENCE OF THE PIPE AND NOT LESS THAN THREE HOLES PER LINED FOOT OF PIPE.
* SANDY LOAM/LOAMY SAND; FINES SHOULD BE LIMITED TO TWENTY PERCENT OR LESS PASSING THROUGH A #200 SIEVE

BIORETENTION AREA DETAIL
NOT TO SCALE

ARTICLE 5. CREEK SETBACK REQUIREMENTS

6-1841 STRUCTURE SETBACK

(a) AS DEFINED BY SECTION 6-312 AND SECTION 6-355, BUILDINGS AND STRUCTURES SHALL BE SET BACK FROM AN UNIMPROVED CREEK CHANNEL AS FOLLOWS:

1) CHANNEL DEPTH OF 0-21 FEET. IF THE SIDE SLOPES OF THE CHANNEL ARE STEEPER THAN 2:1 (HORIZONTAL:VERTICAL), THE WIDTH OF THE STRUCTURE SETBACK IS DETERMINED BY A LINE MEASURED FROM THE TOE OF THE SLOPE A DISTANCE OF TWICE THE CHANNEL DEPTH PLUS THE APPROPRIATE TOP-OF-BANK SETBACK AS FOLLOWS:

CHANNEL DEPTH (FEET)	TOP OF BANK SETBACK MINIMUM WIDTH (FEET)
0-6	12 EACH SIDE
6-12	15 EACH SIDE
12-18	18 EACH SIDE
18-21	21 EACH SIDE

IF THE SIDE SLOPES OF THE CHANNEL ARE FLATTER THAN 2:1 (HORIZONTAL:VERTICAL) THE STRUCTURE SETBACK IS THE APPROPRIATE SETBACK INDICATED IN THE TABLE ABOVE, MEASURED FROM THE TOP OF THE BANK.

2) CHANNEL DEPTH EXCEEDING 21 FEET. IF THE DEPTH OF THE CHANNEL EXCEEDS 21 FEET, THE WIDTH OF THE STRUCTURE SETBACK IS DETERMINED BY MEASURING FROM THE TOE OF THE SLOPE A DISTANCE OF THREE TIMES THE CHANNEL DEPTH.

(b) IF A PARCEL IS SUBJECT TO SUBDIVISION EASEMENTS OR SETBACK REQUIREMENTS UNDER CONTRA COSTA COUNTY ORDINANCE CODE SECTIONS 914-10.406 THROUGH 10.408 WHICH ARE INCONSISTENT WITH SUBSECTION (a) ABOVE, THOSE SUBDIVISION REQUIREMENTS CONTROL.

(c) NO PERMANENT STRUCTURE OTHER THAN FENCES AND DRAINAGE AND EROSION PROTECTION IMPROVEMENTS MAY BE CONSTRUCTED WITHIN THE SETBACK AREA. (ORD. 369 § 1 (PART), 1988)

Ⓐ DEPTH = 772.9' − 752.4' = 20.5'
DISTANCE = 28.0'
SLOPE = 20.5/28.0 = 73% ; STEEPER THAN 2:1
SETBACK = (2x20.5) + 21 = 62.0' FROM TOE OF SLOPE

Ⓑ DEPTH = 768.7 − 749.4 = 19.3'
DISTANCE = 28.0'
SLOPE = 19.3 / 28.0 = 69% ; STEEPER THAN 2:1
SETBACK = (2x19.3) + 21 = 59.6' FROM TOE OF SLOPE

Ⓒ DEPTH = 759.5' − 746.7' = 12.8'
DISTANCE = 17.7'
SLOPE = 12.8/17.7 = 72% STEEPER THAN 2:1
SETBACK = (2x12.8)+18 = 43.6' FROM TOE OF SLOPE

Ⓓ DEPTH = 749.9' − 744.6' = 5.2'
DISTANCE = 9.5'
SLOPE = 5.2/9.5 = 54.7% STEEPER THAN 2:1
SETBACK = (2x5.2)+12 = 22.4' FROM TOE OF SLOPE

Ⓔ DEPTH = 748.5' − 740.4' = 8.1'
DISTANCE = 9.0'
SLOPE = 8.1/9.0 = 90% STEEPER THAN 2:1
SETBACK = (2x8.1)+15 = 31.2' FROM TOE OF SLOPE

Ⓕ DEPTH = 743.4' − 728.6' = 14.8'
DISTANCE = 18.9'
SLOPE = 14.8/18.9 = 78% STEEPER THAN 2:1
SETBACK = (2x14.8)+18 = 47.6' FROM TOE OF SLOPE

Ⓖ DEPTH = 735.3' − 724.6' = 10.7'
DISTANCE = 18.6'
SLOPE = 10.7/18.6 = 57% STEEPER THAN 2:1
SETBACK = (2x10.7)+15 = 36.4' FROM TOE OF SLOPE

LEGEND
- 778 — EXISTING CONTOUR
- (780) — PROPOSED CONTOUR
- 770.38 — EXISTING SPOT ELEVATION
- DENOTES EXISTING ASPHALT PAVING
- DENOTES NEW PAVEMENT SURFACE
- DENOTES NEW DRIVEWAY TURNOUTS
- DENOTES EXISTING TRAIL EASEMENT TO BE ABANDON
- DENOTES BUILDING SITE
- DENOTES SLIDE BUTTRESS
- DENOTES PROPOSED 10' WIDE TRAIL EASEMENT

LANDSLIDE FEATURE PER REPORT BY PURCELL RHOADES & ASSOCIATES "GEOTECHNICAL STUDY UPDATE, PROPOSED SINGLE FAMILY DEVELOPMENT PARCELS A, B AND C, HAPPY VALLEY ROAD, MS 504-87 APN 247-010-018 & 020, LAFAYETTE, CALIFORNIA PROJECT NO. 12-215/7231-01, JUNE 1, 2006

NOTE: ALL PARCELS TO HAVE WATER RETENTION SYSTEMS THAT WILL LIMIT THE AMOUNT OF RUNOFF FROM IMPERVIOUS SURFACES TO BE NO GREATER THAN RUNOFF THAT WOULD OCCUR IN THE SITE'S NATURAL HILLSIDE STATE. CONTRA COSTA CLEAN WATER C.3 REQUIREMENTS FOR INFILTRATION WILL BE MET FOR IMPERVIOUS SURFACES WITH GRASSY SWALES AND OTHER APPROVED SYSTEMS.

TOPOGRAPHY AND CONTOUR NOTE:
Those portions of this map shown with a 5' contour interval were prepared using computer assisted, photogrammetric methods by HJW GeoSpatial, Inc., in Oakland California. In areas of dense vegetation, accuracy of contours may deviate from accepted accuracy standards.
Trees and drainage information have been field shot within portions of this area and can be identified by a spot elevation and in some instances a description.

Those portions of this map showing a 2' contour interval and spot elevations were field shot by Schell and Martin, Inc.

REV:08-05-08
REV:04-25-08
REV: 3-28-08

PRELIMINARY GRADING, DRAINAGE AND IMPROVEMENT PLANS SUBDIVISION MS 504-87 RESUBDIVISION OF PARCEL D 40 PM 21 CITY OF LAFAYETTE CONTRA COSTA COUNTY, CALIFORNIA

REGISTERED PROFESSIONAL ENGINEER RICHARD C. MARTIN No. 54357 EXP. 12-31-09 CIVIL STATE OF CALIFORNIA

SCHELL AND MARTIN, INC.
LAND SURVEYING AND CIVIL ENGINEERING
3377 MT. DIABLO BOULEVARD
LAFAYETTE, CALIFORNIA 925-283-8111

FOR: ROBIN LEAHY

BY: HGW FB: 509 PG: 1-8,68-75 JOB# 430-054
DATE: 06-15-06 SCALE: 1" = 30' SHEET 3 OF 3

RECEIVED
AUG 4 2008
CITY OF LAFAYETTE

LAW OFFICE OF DAVID J. BOWIE
Attorney at Law
2255 CONTRA COSTA BLVD., SUITE 305
PLEASANT HILL, CA 94523

DAVID J. BOWIE

Telephone (925) 939-5300
Facsimile (925) 609-9670
Dave@bblandlaw.com

July 30, 2008

TO | NAME
FEDERIGHI
ANDERSON
AUDURI
ANDERSSON
TATZIN
CITY MANAGER
ADMIN. SVCS. DIR.
COMM. DEV. DIR.
PLNG. SVCS. MGR.
ENGRG. SVCS. MGR.
PUB. WORKS MGR.
PARKS & REC. DIR.
FINANCIAL SVC. MGR.
POLICE SVCS. MGR.
ATTORNEY
CITY CLERK
CHRISTINE

Mayor Anderson and
Members of the City Council
City of Lafayette
3675 Mt. Diablo Blvd, Suite 210
Lafayette, CA 94549

Re: Leamy Subdivision MS 504-87CCII –Robyn and Chris Leamy

Dear Members of the City Council:

I have prepared this letter and submitted it to you for your consideration at the next City Council meeting at which the Leamy Subdivision Application will again be considered. I will concede that a number of points set forth in this letter were raised by me and discussed during the course of my presentation on July 28. Given the extreme lateness of the hour, I felt that reducing some of the points made to letter form might prove helpful as you again consider this application and take final action.

1. **Status of the Subdivision Application**:

The staff report prepared by Christine Sinnette is both comprehensive and informative. That staff report includes a copy of a Settlement Agreement reached between the former owner of the current Leamy Property, John Barsell, and the City of Lafayette. The Settlement Agreement resolved certain then pending litigation by granting reconsideration of a prior denial of a Subdivision Application. The City imposed certain conditions which Barsell was required to satisfy regarding access; the property owner retained the right to contest conditions to approval; the City retained the right to impose conditions to its approval.

It has been repeatedly suggested that a preliminary approval based upon reconsideration by the City of Lafayette in or about 1994 has no bearing on the instant Subdivision Application. That is clearly untrue. Let me explain.

On August 5, 1994 and again on November 3, 1994, the Lafayette City Attorney clarified the intent of the Settlement Agreement and of a July 25, 1994 Preliminary Approval granted the subdrain of the Barsell property. The City attorney noted that the City imposed two conditions of approval to the Subdivision. First, the property was required to demonstrate compliance with the requirement that an encroachment permit be obtained from the City of Orinda; second, the intersection of the future private road with Happy Valley Road would have to meet Caltrans sight distance standards. The City attorney explained in both letters that the City did not wish to

expend monies and time in preparing details for conditions of approval in the absence of compliance with the two conditions. The city attorney further confirmed that if the conditions were not met, the project would be deemed denied. If, however, the conditions were satisfied, then the City was both obligated to develop Subdivision conditions of approval and to approve that Subdivision. For your reference and information, I have enclosed both letters to which I have just made reference.

The Leamy Subdivision is substantially identical to the Barsell Subdivision preliminarily approved in 1994. Regardless of the Settlement Agreement, the application meets all contemporary standards imposed by the City of Lafayette and findings in support of approval can easily be made. In fact, staff has made those findings and has recommended approval to this Council.

It has been confirmed that the two conditions to the preliminary approval have been fully performed and satisfied. Regardless of the application of contemporary standards and findings to the present subdivision, this Council is simply obligated to approve it based on the prior Settlement Agreement all as construed by the then city attorney and its then Planning Director.

Based upon the Settlement Agreement as well as the project merits, it is respectfully requested that the Subdivision be approved without further delay.

2. **Certain Concerns Voiced by Council Members**:

During the July 28 hearing, Councilmember Tatson voiced concerns over the potential discovery of unforeseen geologic conditions which might endanger the building site on one of the proposed lots. That concern prompted Councilmember Tatson to suggest that further soils and geologic investigation be conducted before Subdivision approval even though such extensive work is not normally required and would only be used to confirm specific design criteria as a part of the development of formal grading plans.

While I fully understand Councilmember Tatson's concerns, they are misplaced—at least in this instance. The lot in question is approximately 2.5 acres. There are numerous potential building sites—not merely one. There is no factual basis from which it might be concluded that additional investigation is required at this stage or that any problems might exist after slide repair regarding a proposed building site. In the extreme eventuality that some problem might be encountered, the size of the lot renders moot the stated concern.

3. **Issues**:

It is clear from all of the CEQA materials prepared, the letters from neighbors and the testimony offered at numerous hearings that only one concern exists with respect to this entire application: the apparent deep seated bedrock landslide. Not one other issue has been raised and, ironically, the deep seated landslide has no relationship whatsoever to any proposed project impact.

This project has been evaluated for geologic and soils conditions on numerous occasion for more than 20 years and by at least four separate geotechnical engineers. The Purcell Rhoades firm performed original soils work and evaluation concerning which a peer review was accomplished by Alan Kropp & Associates and referenced in the original EIR. The Purcell

Rhoades firm has done additional soils investigation and prepared additional reports in 2007 & 2008. Alan Kropp & Associates has performed peer review of the recent Purcell Rhoades work and Paul Seidelman has been hired by the neighbors to criticize that work. Mitch Wolfe of Cal Engineering & Geology has been retained by the Leamys to provide further consultation regarding this issue of soils conditions. In the meantime, over 40 test pits and/or borings have been dug and analyzed and both of the consultants to the applicants as well as the peer reviewer have concluded that parameters of the deep seated landslide activity have been mapped and analyzed and that typical reconstruction and repairs may be used to completely remediation.

Rather obviously, the neighbors concerns over landslide movement are best met by this project if it is permitted to go forward. This project will result in landslide remediation and repair. If this project does not go forward, there will be no repairs—nor any legal liability to make such repairs. Mitigation measure No. 5 proposes literally to repair the landslide. Both Mitch Wolfe testified and Alan Kropp concurred that the end conclusion of this project will be that no landslide will exist; only a project (and neighbors) no longer subject to the risks inherent in landslide activity.

Logically, the neighbors should be in full support of this Subdivision. An existing impact and condition having nothing to do with the project will have been completed mitigated. The project clearly deserves approval by this Council.

4. **CEQA Issues**:

It is well-established that CEQA is intended to provide information to decision makers. The CEQA process is not used to develop detailed engineering plans used for issuance of permits and completion of work. The base line for CEQA study does not even include the landslide which is of such concern as it is an existing condition unrelated to any project impacts. To claim that additional study is required before Subdivision approval at this point in light of conditions imposed by staff is absolutely ludicrous.

5. **Conclusion**:

For all of the foregoing reasons and based both upon staff recommendations and the extensive CEQA analysis completed to date, it is respectfully requested that this project be approved.

Very truly yours,

David J. Bowie

Cc: Robin Leamy
Mala Subramanian

RECEIVED AUG 8 1994

LAW OFFICES
of
CHARLES J. WILLIAMS
a professional corporation

Muir Parkway
1320 Arnold Drive, Suite 160
Martinez, California 94553

Tel. 510.228.3840
Fax 510.228.1703

Charles J. Williams
a professional corporation
Teresa L. Highsmith
Elizabeth B. Hearey

August 5, 1994

David J. Bowie, Esq.
BOWIE & BRUEGMANN
1331 N California Blvd, Suite 780
Walnut Creek, CA 94596

Re: Barsell v. City of Lafayette

Dear Dave:

This will confirm our telephone conversation of August 5, relating to the City Council's action regarding the Barsell matter.

You expressed some doubt as to precisely what action the Council took.

The following is my understanding and I have confirmed this with Mike Henn. The City Council did not wish to get involved in the time and expense of preparing detailed conditions of approval of the subdivision unless and until Barsell was able to

1. demonstrate compliance with the requirement that he obtain an encroachment permit from the City of Orinda; and

2. that the intersection of the future private road with Happy Valley Road would meet specific CalTrans sight distance standards.

For this reason, the Council delayed the development of the conditions of approval until these two conditions are met.

Once Barsell has satisfied these two conditions, the City is obligated to then develop subdivision conditions of approval, and then approve the three-lot subdivision. Obviously, if either of the first two conditions are not met, the City is not further obligated to process the subdivision and it would be, in effect, denied.

I hope this clarifies the matter.

Very truly yours,

Charles J. Williams

CJW:djl

laf\barsell\lbowie.805

LAW OFFICES
of
CHARLES J. WILLIAMS
a professional corporation

Muir Parkway
1320 Arnold Drive, Suite 160
Martinez, California 94553

Tel. 510.228.3840
Fax 510.228.1703

Charles J. Williams
a professional corporation
Teresa L. Highsmith
Elizabeth B. Hearey

RECEIVED NOV 7 1994

November 3, 1994

David J. Bowie
Bowie & Bruegmann
Suite 780
1331 North California Boulevard
Walnut Creek, CA 94596

Re: Barsell v. City of Lafayette

Dear Dave:

This is in response to your letter of October 31, 1994.

Perhaps, the concern which you express is really a problem of semantics, to which I may have contributed by my letter of August 5.

I have reviewed my notes of the City Council meeting and they state that the motion was that the subdivision was "preliminarily approved subject to (1) compliance with CalTrans standards, (2) Orinda issuing an encroachment permit, and (3) if the encroachment permit is issued, the matter goes back to the Lafayette Planning Commission for the development of conditions with the City Council retaining final authority to approve or disapprove the subdivision."

I believe you understand the reason for the council delaying the development of conditions until there has been demonstrated compliance with the CalTrans' sight distance standards and the assurance that the City of Orinda will issue an encroachment permit. The reason the matter goes back to the Council rather than resting with the Planning Commission (unless they were on appeal) is that this settlement originated at the Council level.

If the council were to approve the subdivision, as is the case normally, all of the conditions of approval would have been developed first so that the approving body could make the findings required under Government Code section 66474 (consistent with the general plan, physically suitable for the type of development, not likely to cause substantial environmental damage, etc.) These findings can only be made when a total package is before the approving body. Such is not the case here, for the reasons indicated.

When Barsell has met the requirements of the two conditions (CalTrans' standards and the Orinda encroachment permit), the city will proceed to develop conditions of approval. The scope of the city's discretion in granting or denying approval is much more circumscribed than would be the normal case because the council has previously "preliminarily approved" the 3-lot subdivision subject to the two requirements and the development of conditions approval.

If you think it would do any good, I would be happy to discuss the matter with John Lisenko in order to assist you in complying with the encroachment permit requirement.

I hope this clarifies matters to your satisfaction.

Very truly yours,

Charlie

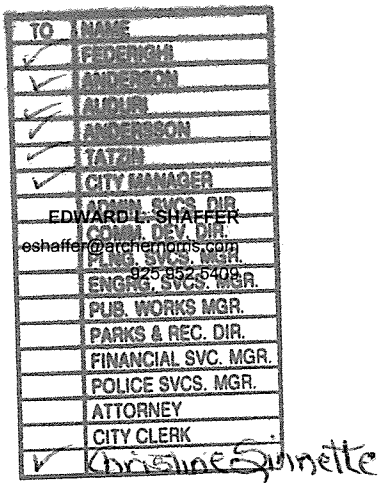
Charles J. Williams

CJW:djl

laf\gen\lbowie.n03

ARCHERNORRIS
A PROFESSIONAL LAW CORPORATION

2033 North Main Street, Suite 800
Walnut Creek, CA 94596-3759
925.930.6600
925.930.6620 (Fax)
www.archernorris.com



EDWARD L. SHAFFER
eshaffer@archernorris.com
925.852.5409

July 28, 2008

VIA EMAIL AND FACSIMILE
Lafayette City Council
City of Lafayette
3675 Mt. Diablo Boulevard, Suite 210
Lafayette, CA 94549

Re: Leamy Subdivision (MS504-87CCII) – July 28, 2008 Hearing

Honorable Council Members:

We represent the five families listed below, whose homes abut the Leamy property being proposed for subdivision. The Council is scheduled to hold a public hearing tonight. We ask the Council to consider the following questions and concerns as it reviews the project.

Several letters on the draft EIR and this project have been submitted on behalf of the neighbors. Please consider our comments before making any decisions. I am sending this letter to point out additional serious issues arising from the City's handling of the project.

For CEQA purposes this letter should be treated as providing comments on the draft EIR. They raise new concerns about adequacy of the EIR and the City's CEQA process, which require responses before the Council acts. California courts require agencies to respond to such comments even though submitted after close of the formal public review period.

1. **Postpone the next hearing.** The staff report recommends continuing the hearing to August 11. The problem is that we have no idea when the Responses to Comments document and the Mitigation Monitoring & Reporting Program ("MMRP") will be released. Both the public and Council members deserve adequate time to review those new materials. If they are not done, people will waste time coming on August 11 only to be told the hearing must be delayed. If they are released only a few days beforehand, a continuance will be needed.

Our deadline to submit material for the August 11 Council packet will be August 4 – only a week from now. This makes it impossible to give the Council meaningful feedback on the new CEQA documents, even if they are released later this week. It is very difficult to provide indepth comments during the three minutes allowed for testimony at a hearing, and distributing a letter the night of the hearing gives the Council limited time to consider its contents.

ATTACHMENT E

This would not be fair to the public. The best solution is to wait for the Response document and MMRP to be published, then send new notices and schedule a hearing with enough time to allow at least a week between receipt of the notice and the packet deadline. Anything less makes a sham of the process and deprives both the public and the Council members of adequate opportunity to review and comment on critical CEQA details. It was premature and inefficient to hold tonight's Council hearing before the Responses and the MMRP were available for review. Please ask staff when they anticipate releasing those materials.

2. **Wait for the Responses to Comments before considering the EIR.** The agenda for July 28 suggests the Council will start to consider adequacy of the new EIR. We submitted complex questions about the draft EIR, that deserve detailed responses by staff and the City's consultants. Until the responses are available, the Council should not even begin discussing whether the EIR is adequate. It also is wasteful for the public to testify earlier, because we won't know if our comments have been adequately answered. To preserve our legal rights we will be forced to complain about how the draft EIR ignored or dismissed our concerns – which may become unnecessary if the responses satisfy our questions.

If the Council does begin the hearing on July 28, and decides not to require new notices and a separate hearing later, then please make sure to leave the hearing open to the next meeting date (whether August 11 or another time), and allow the public to speak again after the Responses and MMRP finally become available. Public testimony about whether the project should be approved must provide an opportunity to consider all the CEQA issues involved, including the City's answers to our specific EIR concerns.

3. **Don't be influenced by the Planning Commission recommendations.** The Planning Commission held its hearing on the project on June 19, only 7 days after the draft EIR was published. The Commissioners likely had little opportunity to review the document. They certainly did not get a chance to consider the problems raised by public comments – which were not submitted until several weeks later – let alone see responses by staff and the consultants. Speakers at the hearing did not have time to review the draft EIR beforehand. Thus the Commission's recommendations to change mitigations, and its conclusion that the Council should adopt the EIR, were made without having any reasonable opportunity to consider the relevant information and make informed decisions.

This timing makes a mockery of the Commission's role in the process. Reliance on the Commission's recommendations would make the Council's decisions arbitrary and capricious. Furthermore, as described below statements by staff and the applicant's attorney may have misled the Commission by suggesting that all serious problems have been covered and the City does not have full discretion over this project.

4. **EIR fails to study hauling soil to the site.** I have identified another issue ignored by the EIR that must be studied before considering the project. Mitigation Measure #9 recognizes the project will need to import soil. It reads: "*It is likely that a thick layer of non-expansive imported materials would be needed to help provide stability to the roadway section.*

Imported material would also likely be needed under any slab-on-grade improvements, walkways or patios in the building areas." The road will be 20 feet wide. I was not able to find the length of the road mentioned anywhere in the EIR or the staff report, but my rough measurement estimates it will be about 800 feet long.

That means a **thick** layer of soil must be hauled in to cover 16,000 square feet of roadway. However, the brief discussion of construction traffic (see draft EIR p.46) ignores this detail. What does "thick" mean: 3 feet? 6 feet? There is no estimate of how many dump trucks will be hauling soil up Happy Valley Road to the site: 100? 1,000? Even if the City decides this does not represent a significant impact for traffic, safety or air quality, the EIR at least must recognize the situation and provide evidence to support a finding of no impact. This omission alone would be enough for a court to find the EIR inadequate and overturn project approval.

5. Cannot weaken mitigations as proposed. The Planning Commission voted to recommend revisions to several mitigation measures, based on requests by the applicant and guidance from staff (see staff report for July 3 Commission meeting). There are serious legal deficiencies with this situation.

a. Cannot limit runoff control to the 10-year storm. Mitigation Measures 10 and 12 in the draft EIR require the project to accommodate runoff for both the 10-year and 100-year storm. The applicant's attorney claimed that the practice in Contra Costa County is to only require 10-year detention for smaller projects. Without any analysis, staff recommends deleting the 100-year requirement. This will expose downhill neighbors and downstream properties to increased risk of flood damage, which violates state and federal law. To our knowledge no one has consulted the County Flood Control District or the Regional Water Quality Control Board as to whether this satisfies the "no net increase in runoff" requirement.

According to our consultant Paul Seidelman, FEMA regulations and federal law require controlling runoff from the 100-year storm where there is potential to damage residential property. Allowing the project to add road and other impervious surfaces and install landslide subdrains will increase runoff beyond current conditions. This may overload the creek and channel being relied on for drainage – which already experience problems during heavy rains – and threaten to flood downstream homes. The Johansen/Hartfield home is particularly vulnerable to this risk. The County recently required Mr. Seidelman to design a two-parcel development using the 100-year storm standard. To avoid violating state and federal requirements the project must design on-site storage capacity to handle the 100-year event. Ignoring runoff heavier than the 10-year storm is neither legal nor reasonable.

b. Must consider downstream conditions and effects. Staff also advised the Commission to change wording in Mitigation Measure 12 that required the applicant to study the downstream storm drain system and identify deficiencies. First, such a study should have been done as part of the draft EIR, as it is not acceptable under CEQA to defer basic analysis of potential off-site flooding problems. Even if it is an existing and cumulative issue and not solely the applicant's responsibility to cure, CEQA requires the City to recognize flooding that affects

the neighborhood and then identify necessary mitigation measures that the applicant or the public agencies should implement. Second, state and federal regulations regarding protection against the 100-year storm apply to downstream drainage systems, requiring this study.

c. Must study if location of Parcel C homesite is safe. Staff recommends deleting Mitigation Measure 6 and revising Measure 7. The implication of these changes is that future geotechnical studies do not need to question if the proposed house location on Parcel C is safe. The new wording in Measure 7 states that the study will be limited to determining "design parameters for house foundations and improvements" – ignoring the house's location.

Staff's note that supported deleting Measure 6 directly conflicts with this result and may have misled the Commission (see page 4 of July 3 staff report). The note claimed that Measure 7 would require studies of house location – which is not correct under Measure 7 as revised. In addition, the note stated that remediation is needed to stabilize the road to Parcel C "*and not necessarily the building site*" – which shows that staff admits they don't yet know if the homesite needs stabilizing. According to Paul Seidelman, even the City's consultant Alan Kropp agreed that we don't know if the Parcel C homesite is safe, and only future testing will determine if a house should be built there or moved.

These mitigations should not be changed in this way, suggesting the Parcel C homesite location is settled and does not require more study. This is an example of what the neighbors fear, that after the parcel map is approved the applicant will pressure staff to allow construction as shown and will resist efforts to change the layout even if studies show it is not safe.

d. Need evidence and findings to change mitigations. Under CEQA, the EIR identifies impacts and recommends specific mitigations to avoid those impacts. The City is required to impose those mitigations **as written in the EIR**. Before revising or deleting important details in a mitigation measure, or applying an alternative mitigation, the City must adopt findings that the changed mitigation will be equally effective in avoiding the impact identified by the EIR. Those findings must be supported by credible evidence in the record. So far, we have not seen any discussion or evidence to support the claim that impacts will be equally mitigated even if runoff is only controlled for the small 10-year storm and downstream conditions are ignored, and there record shows that safety of the Parcel C homesite still is an open question. The Council has no foundation to adopt such findings or to revise the mitigation measures as being recommended.

e. No markup of mitigation changes. It may sound minor, but the City did not produce a marked version of the mitigations showing proposed changes. This makes it very difficult for City officials and the public to spot those changes and consider if they are reasonable. This is another example of staff saying "trust us to do the right thing, the public doesn't need to know the details." That is unacceptable under CEQA. I am surprised the Planning Commission accepted staff's recommendations without seeing the specific changes. I urge the Council to require details about any suggested edits before making decisions.

6. **Staff misleading Council on key details.** The staff report and testimony before the Planning Commission contained several significant distortions, omissions and admissions that may mislead the Council. We suspect they will be repeated on July 28. We urge the Council to read our comment letters on the draft EIR and ask staff to clarify these questions before making any decisions.

a. **Complete repair of landslides is not guaranteed.** The staff report claims that "*the current project now includes the complete repair of two on-site landslides*" (see page 3, third paragraph under "Project Description." This was repeated by staff and the applicant's attorney during the Commission hearing. However, Mitigation Measure 5 suggests the City may allow a possible alternative of just buttressing the road and leaving most of the landslide below the road as-is. However, there is no analysis of whether this solution will be safe for project homes or the downhill neighbors. There also is no consideration of the effect on the landslides where they continue off-site onto the neighbors' property. In fact, the EIR and staff reports ignore that fact and act as though the landslides miraculously end at the property line. The staff report proposes that these basic questions and substantial changes in the project will be decided later by staff and the applicant – without any involvement by the Council or review by the public. CEQA does not allow this attempt to handle development impacts and allow an alternative project design behind closed doors and outside the EIR process.

b. **More grading is likely.** The staff report also makes the blanket statement that grading will only "*involve approximately 79,500 cubic yards of soil*" (see page 3). This figure also was repeated several times to the Commission. However, Alan Kropp agreed that more study is needed to identify the true size of the landslides and the amount of work involved. As the draft EIR admits (page 53), Mr. Kropp predicted that actual grading may be up to 50% more than estimated – which could be as much as **139,000 cubic yards**! The EIR provides no analysis of impacts from larger landslide repair work, such as the increased amount of dirt movement involved. This is not just a small project with minor grading.

c. **Drainage details not yet studied.** The staff report implies that all aspects of drainage have been studied and designed. This is not true. During the June 19 Commission hearing staff admitted that the drainage plan is only designed to handle surface drainage (see Commission minutes page 2, line 48). Later that night staff confirmed that dewatering of the landslide had not yet been studied (page 10, line 7+), and the drainage system proposed by the applicant does not yet take into consideration how much water will be drained from the landslide or how it will be safely handled. Alan Kropp suggested possible future solutions such as adding a pump system or redesigning with shallower subdrains (page 8, line 54). Those changes are needed because the current design shows subdrains lower than the creek they are supposed to drain into. However, we have no idea whether those solutions are feasible or what new impacts they may create. CEQA cannot allow approval when the EIR ignores such basic and critical questions as what mitigation redesign is needed, are those mitigations feasible, and will they lead to secondary impacts that also must be studied and mitigated.

d. **Disagreement among experts not addressed.** The staff report claims that my clients' objections merely represent a disagreement among experts, and the City is free to select one expert's opinion over another's (page 6). During the Commission hearing, staff claimed that the draft EIR "*summarizes the main points of disagreement among the experts*" (Minutes page 2, line 25). This is not correct.

Paul Seidelman has presented a number of serious criticisms about the lack of data (i.e., for failure to perform enough of the right kinds of borings) and the methods of analyzing what data is available (e.g., use of the wrong angle of friction and cohesion value). As to the lack of borings, my July 14 comment letter explains that CEQA does not treat this situation as simply a disagreement between experts when there is no data to disagree over. Contrary to the staff claim, nowhere in the draft EIR is there any mention of Mr. Seidelman's technical criticisms or any discussion about why the City's expert disagrees with him. In fact, Mr. Seidelman states that the City's geotechnical expert agrees the wrong angle of friction and cohesion values were used (see page 2 of Seidelman's July 14, 2008 letter). We hope to see these concerns addressed in detail when the Responses to Comments are released, but so far the EIR has ignored these questions.

e. **Effect of stockpile is ignored.** Staff recently confirmed Mr. Seidelman warning that the property contained a deep landslide. The result was to dramatically increase how much grading is needed. Part of the applicant's solution is to store soil in a large mound near homes abutting the project site. The pile will hold 24,000 cubic yards of dirt, meaning there will be constant shuttling of trucks back and forth on the property as they excavate and then rebury at least 79,500 cubic yards. However, despite the staff report claim that the EIR identifies and evaluates every impact, there is absolutely no discussion of adverse effects from this large stockpile. We have no information about basic details such as how high it will stand, how long it will remain, how many trucks and other equipment will be working on it. There is no mention of potential impacts such as dust, runoff, noise and aesthetics. Again, every competent EIR evaluates construction-period operations and their impacts, and recommends mitigations to protect the neighbors; this omission makes the Leamy EIR legally inadequate.

f. **There is no future CEQA review.** During the June 19 hearing, a Commissioner asked what would happen if the future studies and project construction revealed a new environmental impact (Minutes page 10, line 35). Staff replied that "*a supplemental [EIR] or an addendum to the original report would need to be done.*" This was wrong, and it misled the Commission into thinking that this would not be their last chance to review impacts and consider needed mitigations. Under CEQA, new environmental review occurs only if another discretionary approval is needed. If the City adopts this EIR and approves the pending subdivision application, it is our understanding that no other Commission or Council discretionary approvals are required – just staff review of final plans. There will be no second chance for the Council to reconsider lot and house locations or to decide that more mitigation is needed to protect the neighbors. And there will be no process for the neighbors to air concerns about the results of those studies and how staff is handling new problems. This is clearly contrary to CEQA law and the goal of CEQA – that the Council and the public be fully informed of project impacts when they consider what to approve and what conditions to impose. The City

is not allowed to delay studies and ignore valid impact concerns, or to tell the neighbors they should "just trust staff."

g. **No information to support approval findings.** The staff report lists findings required for approval of the project, and offers the opinion that all the findings can be made (page 6). First, the findings required under CEQA are not included. Second, the report states that "*analysis of the project's conformance with these findings will occur in a subsequent staff report.*" How can staff assure the Council that it can make the findings before full analysis is provided? How can the City even begin to consider if the CEQA findings can be made before responses to the EIR comments are done? The City cannot follow a backwards process of making its decision first and justifying it later – ignoring the fatal CEQA flaws we uncovered.

h. **Prior history has no bearing on this decision.** The staff report recites the history of this property and earlier applications, including Council reconsideration in 1994 (page 2). The applicant keeps repeating that the Council preliminarily approved development of the property in 1994. They imply that this ties the City's hands and limits your discretion, so all the Council can do is tinker with conditions related to access. They used this claim to intimidate the Planning Commission, and they will try to do the same with the Council. The applicant has no guaranteed right to split the property and develop multiple lots, and he should not threaten to sue the City if this application is not approved.

As discussed in my 2007 letters to the Council (see Appendix A of the draft EIR), there is no such thing as a "preliminary approval" under state or local law. That informal action 14 years ago has no legal significance and does not limit the Council's discretion. The 1994 straw vote also did not trigger any right or need for opponents to file suit, contrary to claims by the applicant's attorney that time has run out to challenge adequacy of the 1988 EIR (see Commission Minutes page 3, line 19). Even if the 1994 event created any privilege for the property, the owner lost the right to claim special treatment by waiting 10 years to reactivate development plans. It also does not matter that more lots were proposed 20 years ago and this is a smaller project. The only question is whether the project and its CEQA review satisfies current legal requirements and has done the studies and planning needed to make sure it will be safe.

Conclusion

The Council should not be swayed by claims that this is merely a disagreement among experts. You cannot follow the advice of geotechnical experts when that advice violates CEQA. All the experts agree that more study is needed and they do not yet know the full size and location of landslides, have not yet determined what repairs are needed and how much grading is needed (79,500 versus 139,000 cubic yards), don't know how they will handle landslide drainage (how much water and where it will go), and have no way of confirming the planned house location is safe. The City also cannot consider an EIR to be adequate when it ignores the impacts from building a large stockpile, fails to study downstream drainage problems, pretends

the landslides end at the property line, and uses the wrong technical standards in evaluating soil conditions (friction angles and cohesion values). We have raised these questions in our comments and are waiting for staff's responses – as should the Council. We believe that dealing with these concerns properly, and complying with CEQA as the law requires, must involve more site investigations, better details in project design, and recirculation of the draft EIR. We trust the Council will put these hard questions to staff and then do what is necessary.

My clients are very skeptical of the overall approach in this EIR, telling them to trust staff and the applicant to do the necessary studies and require the right mitigations after completion of the EIR and approval of the subdivision. After all, last year they insisted only shall grading was needed and they ridiculed our geotechnical consultant for daring to argue that he believes the site contains deep landslide problems. They said "trust us." Then they reluctantly did more testing and – surprise – found a deep landslide. Now they are dismissing Mr. Seidelman's concerns that the slide may be much larger and deeper than mapped because they did not do enough borings, and again they are saying "trust us." Who would you trust in this situation, if the safety of your home and family were at stake?

The draft EIR must be redone to eliminate any reliance on the 1988 EIR, provide critical missing information and analyses, identify the full extent of impacts, and require project redesign and mitigation as necessary to satisfy CEQA and make sure this development will be safe.

Very truly yours,

ARCHER NORRIS

Edward L. Shaffer

ELS/oev

cc: (all by email only)
Christine Sinnette, Senior Planner
Mala Subramanian, City Attorney

Peter and Susan Colby, 4109 Happy Valley Road
Peter and Martha Clark, 4103 Happy Valley Road
Walter and Virginia Price, 4115 Happy Valley Road
Steven and Rochelle Klein, 4107 Happy Valley Road
Tim Johansen and Mary Hartfield, 4111 Happy Valley Road

ARCHERNORRIS
A PROFESSIONAL LAW CORPORATION

2033 North Main Street, Suite 800
Walnut Creek, CA 94596-3759
925.930.6600
925.930.6620 (Fax)
www.archernorris.com

EDWARD L. SHAFFER
eshaffer@archernorris.com
925.952.5409

August 4, 2008

VIA EMAIL AND FACSIMILE
Lafayette City Council
3675 Mt. Diablo Boulevard, Suite 210
Lafayette, CA 94549

Re: Leamy Subdivision (MS504-87CCII) – August 11, 2008 Hearing

Honorable Council Members:

We represent the five families whose homes abut the Leamy property. On July 28 the Council continued its hearing to August 11. Today is the deadline for the Council's packet. I am sending this letter even though we have not yet received the City's Responses to Draft EIR Comments or the CEQA Mitigation Monitoring and Reporting Program ("MMRP").

This letter addresses details raised during the hearing. Attached is my July 28 letter to the Council, which covered other issues regarding the project and its CEQA review. We ask you to consider the concerns in both letters. Once the Responses and MMRP become available, we may have additional comments or objections – especially if the Responses don't recognize the need to perform additional geotechnical study and design before project approval.

Summary

1. **Reminder of Topics Ignored by EIR.**
   a. **Stockpile Impacts.**
   b. **Landslide Drainage.**
   c. **Importing Soil.**
   d. **Storm Mitigation.**
   e. **Parcel C Homesite Safety.**
2. **Misstatements During Council Hearing.**
   a. **Complete repair of landslides is NOT guaranteed.**
   b. **The 1988 EIR has no relevance.**
   c. **1994 action has no bearing on this decision.**
3. **Hearing Shows Danger in Delaying Studies.**
   a. **Debate over need for down-hole logging.**
   b. **Dispute over adequacy of testing.**
   c. **Neighbors should accept risk of settlement?**
   d. **Applicant claims no obligation to consider downhill conditions.**
4. **Continue Hearing to Allow Time to Review Responses.**

1. **Reminder of Topics Ignored by EIR.** It may help to summarize key details regarding the proposed project that have not yet been evaluated as required under CEQA.

a. **Stockpile Impacts.** The applicant proposes a large stockpile to handle the volume of soil to be shuttled back and forth on the property. However, the EIR does not recognize that this aspect of construction may produce impacts that must be identified and mitigated (noise, dust, erosion, runoff, diesel emissions, etc.)

b. **Landslide Drainage.** The drainage design only handles surface runoff. While the plans show subdrains under the repaired slope, they do not show where drained water will flow. The City's consultant Alan Kropp admitted that the subdrains are lower than the creek being used for drainage. He suggested that to make the system work they might end up using pumps or raising the elevation of the subdrains. However, both solutions raise new questions. If they rely on pumping, should the City require multiple pumps or a generator? Will bonding be required to assure future operation? Who will be responsible for management and maintenance of the system? Is the surface detention/treatment basin large enough and in the right location? If the subdrains are raised higher, how will the lower portion of the repaired hillside be dewatered to prevent slippage? Where and how will the flow be channeled, detained and treated? These all are questions that an EIR is supposed to answer, before the project is approved.

c. **Importing Soil.** The EIR admitted that soil must be imported to create a thick layer on top of the roadway and on portions of the improved homesites. There is no attempt to quantify the volume of soil or number of truck trips required. There is no discussion of possible impacts from this activity or needed mitigations.

d. **Storm Mitigation.** Staff recommends only requiring runoff control for the 10-year storm, and allowing the applicant to ignore downstream flooding conditions. This violates federal law. It also violates the CEQA requirement that any changes to EIR mitigations must be proven equally effective in avoiding impacts. The EIR required controlling runoff during the 100-year storm; the consequences of ignoring that determination must be considered.

e. **Parcel C Homesite Safety.** The EIR recognized that because the actual size and characteristics of the deep landslide are not yet known, more study is needed to confirm the proposed Parcel C homesite is safe. Staff suggests deleting requirements for more study of this question. That deletion would violate CEQA in multiple ways.

Furthermore, statements during the July 28 hearing show that the City does not understand the situation facing Parcel C. In response to our argument that we don't yet know if the homesite is safe, staff rebutted that the homesite covers 15,000 square feet and only slightly encroaches into the landslide, so the actual house construction can be shifted to avoid slide problems. According to Paul Seidelman this is not correct. If there is a slide in that area – a question that has not yet been answered – then it will cover the entire 15,000 square foot site. Flat areas in such terrain are created either by erosion or landslide movement. If tests show the entire area is unsuitable for construction without even more grading, it may be wise to change the layout of the subdivision – but by then it will be too late. Testing and analysis for this situation belongs in the EIR.

2. **Misstatements During Council Hearing.** During the July 28 hearing, statements and claims were made by staff and the applicant that are not correct.

a. **Complete repair of landslides is NOT guaranteed.** Staff and the applicant continue to declare that the project will "completely remove" the landslide. However, Mitigation Measure 5 suggests the City may allow the applicant to just buttress the road and leave most of the landslide as-is. The consequences of that reduced repair scenario must be evaluated, to confirm it does not weaken the remaining slide area, will not divert water toward the neighbors, or otherwise increase the risk of impacts.

b. **The 1988 EIR has no relevance.** Staff repeated its claim that review under CEQA should be limited to asking what changes have occurred since preparation of the earlier EIR. At least one member of the Council relied on this statement to assume that the new study did not have to be a complete EIR that covers all impact topics. This limitation on the EIR is not correct and will lead to the City violating CEQA.

The 1988 report cannot be treated as a certified and deemed adequate EIR, and the new environmental review should not be called a "supplemental" EIR or given any deference that may legally apply with that label. First, only the Planning Commission "certified" the EIR in 1988; there was no similar action by the Council as final decision-making body. More importantly, the City never made any final approval relying on the 1988 EIR – which is the key factor in triggering the statute of limitations for questioning adequacy of an EIR and for setting up the possible use of a "supplemental" EIR for a future, second approval.

Denial ends the matter and gives no legal significance or protection to an EIR prepared for that project. When a later application is being processed the prior EIR may be used as part of the environmental review, but only to the extent applicable and without assuming it is adequate and therefore has the power to limit new study – especially when it is 20 years old. Finally, all considerations must be based on current conditions, standards and CEQA requirements – not outdated details from 1988 or 1994. My comments on the draft EIR ask staff to list every instance where the current review improperly deferred to the 1998 report or limited the scope of study based on incorrect assumptions about the status of the old EIR.

c. **1994 action has no bearing on this decision.** The applicant's attorney again claimed that the Council approved the subdivision in 1994 subject only to obtaining access, and that your discretion now is limited to tweaking the standard conditions of approval. For support he read a letter by the then-City Attorney suggesting that once the owner satisfied the access conditions the City would be obligated to approve the subdivision.

Do not be intimidated by these statements or the threat of litigation they imply. The City is free to exercise its full range of discretion in deciding whether or not to allow the subdivision and what conditions to impose. In any case, no prior action would give the City authority to ignore state law and court decisions regarding its obligations under CEQA.

In brief, any opinion by the City Attorney in 1994 is not binding on the City and cannot be relied on to force approval or shield the City from enforcement of CEQA. There is no

such legal action as a "preliminary approval" and the Council's use of that wording represented at most an informal straw vote. It cannot serve to grant the property owner some vested right or limit the discretion of future Councils. It certainly cannot be used to allow circumventing CEQA requirements. The old settlement agreement with the prior owner merely committed the City to decide whether to reconsider its prior denial and have conditions of approval prepared. It specifically retained full City discretion whether or not to approve the subdivision.

In any case, even if the owner somehow did gain some privileged treatment in 1994 regarding subdivision approval, the 10-year delay in proceeding would have extinguished that right. The City must be able to retain the authority to deal with changed circumstances and regulations – such as CEQA requirements to fully study all impacts before approval, and improved geotechnical methods that allowed consultants to finally identify the deep landslide.

3. Hearing Shows Danger in Delaying Studies.

a. Debate over need for down-hole logging. Staff and the applicant are telling the neighbors that all studies will be performed later. However, the applicant's consultant Mitch Wolfe argued with Alan Kropp about whether down-hole logging was required. The applicant hopes to save money by just digging in and exploring the actual size and depth of the landslide as they go along. Mr. Kropp disagreed and said we need more information in advance on where and how much grading is involved.

This is critical. They may discover they need to increase the amount of grading substantially, going deeper or further out. This likely would affect the construction process and schedule, such as use of the stockpile, and basic design of remediation work, such as the location of subdrains. Impacts may be greater than expected, triggering the need for added mitigations. (As noted above, the EIR does not even recognize many of those impacts in the first place.) Surprises discovered late in the game may mandate material changes in buttresses, subdrains or other features, or make the planned remediation infeasible. This could cause serious complications if a problem is discovered after the hillside is torn apart.

The argument between consultants illustrates why the neighbors are concerned about allowing City staff to make decisions outside the CEQA process about what studies are needed and how the work will be designed. How can we know that Mr. Kropp will be more persuasive with staff than Mr. Wolfe? How can we even be confident that Mr. Kropp or someone with a similar cautious approach will be employed to advise staff? As the Council recognized during the hearing, the mitigation measures do not mandate the more expensive but more informative down-hole logging tests.

b. Dispute over adequacy of testing. Besides the down-whole logging debate, the applicant's attorney claimed that 40 tests around the property provides adequate data. He also complained that the property has been "studied to death" and the work of four different geologists makes the EIR adequate – despite the fact that for 20 years they insisted there was no deep landslide. The applicant's consultant disputed Mr. Seidelman's criticism that there has been only one boring that penetrated the slide into underlying bedrock. Mr. Wolfe claimed during the Commission hearing that four other borings went deep enough to map the outer edges

of the landslide, and he repeated to the Council his opinion that enough testing has been done to fully locate the slide. Fortunately, Mr. Kropp confirmed Mr. Seidelman's interpretation that there has been only one boring deep enough. This provides another example of potential future disputes over what studies are needed and how data will be interpreted, in a process occurring without any opportunity for public scrutiny.

c. **Neighbors should accept risk of settlement?** During the hearing Alan Kropp was asked if dewatering the hillside might dry out the clay soil under the neighbors' houses and cause settlement damage. Mr. Kropp admitted there might be some settlement, but then expressed his opinion that the neighbors should consider the damage preferable to a landslide – implying it is an acceptable tradeoff. This suggests that even the City's own consultant might be willing to approve a remediation design that creates a risk of settlement.

CEQA does not prohibit this result – so long as the risks are analyzed in an EIR, open to public comment, and then accepted by the Council. As the applicant's own attorney emphasized, CEQA's focus is to ensure informed decision making. However, the Council is being asked to approve a project that may lead to settlement, without any disclosure of the extent or likelihood of damage, or consideration of designs and mitigations that may reduce the risk.

The EIR is silent on this question, even though it is an appropriate and necessary topic. Measures should be specified to avoid settlement damage. According to Paul Seidelman, it is common and customary for an EIR to evaluate such situations and specify the following types of mitigations: preconstruction testing to establish baseline groundwater levels onsite and downhill, monitoring as construction begins to spot any sign of impending downhill settlement caused by project work, and alteration of project design details as necessary to avoid settlement. The solution may be as easy as limiting dewatering to summertime groundwater levels rather than complete dewatering. Even if the risk of settlement is low, that risk and reasonable mitigation measures should be described in the EIR. This is another clear violation of CEQA.

d. **Applicant claims no obligation to consider downhill conditions.** The applicant's attorney mentioned that the landslide is a "pre-existing condition" and implied that the owner should not have to make repairs improving the neighbors' situation. He then declared that we should be thankful they are fixing the slide. However, at the same time he pointed out there has been no sign of movement in the past 20 years, meaning the site is relatively stable.

This is a classic CEQA situation that the owner apparently fails to appreciate. We agree that he does not have an obligation to improve the existing condition if the site is left alone. However, he also cannot make it worse – and that is what is at issue here. The neighbors are asking for confirmation – through adequate prior study, design and public review – that grading, dewatering and drainage work needed to build the new road and houses will not trigger problems on their downhill properties that otherwise would not occur, or will not increase the risk of damage if the work is not done correctly or is not properly mitigated. The fact that the owner misses this point means that he will resist efforts to fully study and mitigate the project, and will try to persuade staff to relax their requirements. There is too much at risk for the neighbors to rely on the post-approval, non-public arrangement being proposed.

4. Continue Hearing to Allow Time to Review Responses. The Responses to Comments document will not be available for public review until later this week. This will give us only a few days before the August 11 hearing. We submitted technical criticisms and complex questions about the draft EIR. We expect indepth responses by the City, as required by CEQA. This material will require time for the public and Council members to digest.

The Council should not consider whether to approve the project, or decide if it can adopt findings, until you review these materials. The Council also should wait until it can benefit from public feedback. We will not be able to prepare written reviews in time, and three minutes for oral testimony will not allow for comprehensive comments. You have an obligation to provide the neighbors an adequate opportunity for meaningful input at this final, most critical stage of the process. We ask for a two-week continuance of the Council hearing.

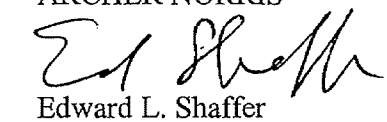
Conclusion

We urge the City to comply with CEQA by requiring geology and hydrology studies now, to identify the construction work involved, its full impacts, and needed mitigations. This is not a matter of finetuning data or tweaking plans. There are huge gaps in the information needed and a high potential for new impacts not yet identified in the EIR.

On July 28 the Council voted to comment on Moraga's specific plan EIR. You objected to the lack of detailed traffic study and inadequate mitigation. You were concerned that the EIR did not identify all potential impacts. The Council declared that a "comment noted" response would not be acceptable. The City expects Moraga to respond to its comments in detail, perform studies and add mitigations before adopting its plan. This is reasonable and consistent with CEQA. My clients do not object to the Leamy subdivision. They only want the same protection and CEQA compliance that the City asks of Moraga. We are sure you would not be satisfied if Moraga responded "Don't worry, we will study it later and make sure there are no impacts."

Very truly yours,

ARCHER NORRIS



Edward L. Shaffer

encl. July 28, 2008 letter to Council
cc: Christine Sinnette, Senior Planner
Mala Subramanian, City Attorney
Peter and Susan Colby, 4109 Happy Valley Road
Peter and Martha Clark, 4103 Happy Valley Road
Walter and Virginia Price, 4115 Happy Valley Road
Steven and Rochelle Klein, 4107 Happy Valley Road
Tim Johansen and Mary Hartfield, 4111 Happy Valley Road

City of Lafayette Memorandum

To: City Council

From: Tony Coe, Engineering Services Manager

Date: August 4, 2008

Subject: MS504-87CCII – 4123 Happy Valley Road

Questions have been raised by the City Council and the public as to the adequacy of technical studies and project plans for MS504-87CCII, the subdivision of 19.23 acres into three lots. It should be noted that between 1987 and 2007, over 20 points of penetration were used to identify the vertical and lateral extent of landslide features. To date, Alan Kropp and Associates (AKA), the City's geotechnical consultant, and I have evaluated the full collection of geotechnical reports, studies, comments, and correspondence prepared, conducted, or submitted in that timeframe. I believe that the current body of work represents a reasonable effort for a project of this type. Nevertheless, during hearings on the project at the Planning Commission in 2007, questions were raised by the public about the adequate quantification of a landslide in the vicinity of the proposed Parcel B/Parcel C lot line, and apparently these questions remain.

In May 2007, I met with the project geotechnical engineer, Purcell, Rhoades, and Associates (PRA), and AKA to discuss geotechnical issues, particularly this location. Based on this discussion, I directed the applicant to conduct additional field investigations to further evaluate subsurface conditions in the vicinity of the Parcel B/Parcel C lot line. The purpose of this investigation was to confirm the limits of the landslides within the broad swale of Parcel B and C and the potential of deep-seated bedrock landslides. Although downhole logged borings were discussed as one method to be used in the investigation, it was jointly decided that the next incremental level of field investigation should include eight exploratory test pits/trenches and the drilling of two rotary wash borings. It was agreed that data obtained from this additional work should yield sufficient information to decide whether downhole logged borings might be required. PRA conducted the field work in July 2007. This additional subsurface investigation is explained in detail in Chapter 3.2.3 of the Draft SEIR.

The results of these subsequent studies were reviewed by AKA. The extent of a previously identified landslide was revised to be larger. While there is evidence to support the potential of a deep-seated landslide, AKA is fairly certain that the work has adequately defined the perimeter of the landslide and has high confidence that the depth of the large landslide, which could affect the volume of the repair, has been identified. I accepted the consultant's conclusion that downhole logged borings were not needed at this point, and that the subsurface investigations conducted through 2007 and PRA reports and studies through 2008 have adequately identified the extent of landslide features affecting the property. Nevertheless, it is a variable that is subject to interpretation of data, and more data would be beneficial to confirm the current thinking which is why implementation of mitigation measure 5 is recommended.

The project proposes to mitigate the soil stability problems by buttressing through conventional cut and fill grading and appropriate foundation design. The documents reasonably reflect methods for their repair for a project in the tentative map stage. The on-site portion of the landslide at the parcel B/C lot line will be excavated west of the road to the extent necessary for the buttress fill to stabilize the road and the Parcel C homesite. The on-site portion of this landslide and swale lying east of the road, will be completely repaired through excavation and compaction. Remedial repair is needed primarily for the road, but will also address unstable soils underlying a portion of the identified homesite for Parcel C. As identified in Mitigation Measure 6, prior to development of Parcel C as well as the other two parcels, design-level subsurface testing and investigations will need to be conducted to determine design parameters for house foundations and improvements. This is no different than any other project proposing development of a single-family homesite.

As is typical with subdivisions, once the tentative map is approved, subdivision improvement plans will have to be reviewed and approved by me. As part of the improvement plan preparation, and as required by mitigation measures 5 and 7, the applicant may need to conduct additional field investigation and design-level analysis to develop construction details for the remedial earthwork, including the buttress fill, drain bench, subdrains, etc. This design-level investigation may in fact include large diameter, downhole logged borings to confirm the depth of the proposed remediation. Improvement plans will also include erosion control and re-vegetation plans and other identified environmental mitigation measures and conditions of approval.

Another issue that has been raised is the impact of subdrains installed in the buttress fill and the possible impacts of dewatering as the result of remedial earthwork. Subdrain systems are commonly used in remedial earthwork to convey groundwater to a disposal point beyond the area of soil repair; they typically do not generate sufficient volumes of water to result in drainage problems. Remedial earthwork often removes groundwater by dewatering to allow work to proceed. If the current aquifer is high, and the draw down is substantial, theoretically there could be an impact in the form of settlement of soils. This is not a common occurrence and there is no indication that there is a high risk in this case. Certainly, it is AKA's opinion that the risk from the existing landslide, if left unrepaired, would far outweigh any risk of settlement from dewatering.

A final issue is drainage. The applicant has provided a preliminary stormwater drainage plan which considers flow control using vegetated swales and detention basins. This preliminary plan is reasonable and adequate at the current stage to address the performance standards contained in Mitigation Measure 12. I also suggested to Planning Staff that the 100-year storm event criteria carried over to this mitigation measure from the 1988 FEIR may be excessive for a project of this nature and magnitude. The design standard in Contra Costa County for subdivision projects less than one square mile in size is the 10-year event only. Staff subsequently presented this information to the Planning Commission at their meeting of July 3, 2008, and the 100-year criteria was deleted from the mitigation measure. The elimination of the 100-year criteria does not change the conclusion in the Draft SEIR that potential impacts from stormwater runoff can be reduced to less than significant levels through implementation of mitigation measure 12, as revised.

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

In the Matter of:

MS504-87CCII, 4123 Happy Valley Road, APN 247-010-019 & 020 – Adopting environmental findings, certifying a supplement to the environmental impact report, adopting a mitigation monitoring and reporting plan, and approving MS504-87CCII, a minor subdivision for three lots	)	Resolution 2008-037

RECITALS

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAFAYETTE ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, CERTIFYING A SUPPLEMENT TO THE ENVIRONMENTAL IMPACT REPORT (SCH#200822136), ADOPTING A MITIGATION MONITORING AND REPORTING PLAN, AND APPROVING THE PROJECT MS504-87CCII

A. In 1987, John E. Barsell, Jr., owner of property located at 4123 Happy Valley Road ("Property") submitted an application (MS504-87) for the minor subdivision of the 20.6 acre Property into four lots.

B. In August 1987, City staff prepared an initial study evaluating the potential environmental impacts from the proposed project (MS504-87) and determined that an environmental impact report (EIR) was required. The Lafayette Planning Commission confirmed staff's requirement that an EIR be prepared and determined that the EIR would focus on potential impacts related to planning and policy context, traffic and circulation, soils and geology, storm drainage and runoff, biologic and habitat considerations, visual considerations, and historic resources.

C. Pursuant to the California Environmental Quality Act ("CEQA") (Public Res. Code, §21000 *et seq.*) and the State CEQA Guidelines (14 CCR §15000 *et seq.*, the City of Lafayette/Planning Services Division ("City") is the lead agency for the project (MS504-87).

D. The Draft EIR was completed and all potential significant adverse environmental impacts were sufficiently analyzed in the Draft EIR.

E. During the official public review period for the Draft EIR, the City received approximately 14 written comments. The City evaluated those comments and prepared written responses thereto that provide detailed reasons regarding the disposition of all comments and the responses to comments are included in the Final EIR.

F. The City prepared the Final EIR and the Planning Commission certified the Final EIR for the project (MS504-87) on October 13, 1988.

G. The City Council subsequently considered the project (MS504-87) and it was denied on June 12, 1988.

H. In 1992, property owner John E. Barsell, Jr. filed a new minor subdivision application (MS504-87II) to divide the Property into three lots.

I. On October 13, 1992, the City Council denied the project (MS504-87II).

J. In February 1994, the City and John Barsell, and all persons who thereafter succeed to any part of Barsell's ownership, entered into a Mutual Compromise Settlement and Release Agreement (Agreement).

K. Pursuant to Term 1 of the Agreement, the City Council held a public hearing on July 25, 1994 to reconsider its 1992 denial of MS504-87II and voted to preliminarily approve MS504-87II if the following three conditions were met:

1. That the intersection at Happy Valley Road shall comply with the Caltrans standards for site distance for traffic traveling at 25 miles per hour.

2. That an encroachment permit shall be obtained from the City of Orinda.

3. When the encroachment permit is obtained, that the matter be brought back to the Planning Commission for review and development of appropriate conditions at a public hearing with a recommendation to the City Council.

L. On June 25, 2005, John E. Barsell, Jr. resubmitted a minor subdivision application MS504-87CCII (Project) to subdivide the Property into three lots for residential development. City staff determined that Mr. Barsell had complied with conditions 1 and 2 of recital K, above, and deemed the application complete on July 23, 2006. The record owners of the Property at this time were, and continue to be, Robin and Kris Leamy.

M. In February 2008, the applicant's revised the Project to include realignment of the access road, to increase the size of the existing conservation easement, and to include repair of two on-site landslides.

N. The City analyzed the potential impacts associated with the changes in the Project since certification of the 1988 Final EIR and concluded that pursuant to section 15163(a) of the CEQA Guidelines, only minor additions or changes would be necessary to make the previous EIR adequately apply to the Project in the changed situation and a supplement to the 1988 Final EIR (SEIR) should be prepared.

O. To determine the scope of the SEIR, the City completed an Initial Study ("2008 Initial Study") for the current Project on February 20, 2008. The 2008 Initial Study determined that there could be potentially significant impacts related to aesthetics, air quality, geology and soils, hydrology and water quality, and transportation and traffic from the current plan. Environmental effects found not to be significant are those related to agricultural resources, biological resources, cultural resources, hazards and hazardous materials, land use planning, mineral resources, noise, population and housing, public services, recreation, utilities and service systems.

P. The City solicited comments, including details about the scope and content of the environmental information as well as potential feasible mitigation measures, from responsible agencies, trustee

agencies, and the public, in a Notice of Preparation ("NOP") for the Project which was filed on February 25, 2008, circulated for a period of at least 30 days pursuant to State CEQA Guidelines section 15082(a) and 15375.

Q. The City narrowed the issues and alternative for analysis in the Draft SEIR following receipt of written statements responding to the NOP.

R. On June 10, 2008, the City requested a shortened review period for the Draft SEIR from the State Clearinghouse and the request for a 30-day review period was granted by the State Clearinghouse and Planning Unit on June 11, 2008.

S. A Draft SEIR was completed and released for public review on June 11, 2008 and the City initiated a 30-day public comment period, ending on July 14, 2008, by filing a Notice of Availability with the State Clearinghouse and Planning Unit.

T. Pursuant to Public Resources Code section 21092, the City also provided a Notice of Completion and Availability to all organizations and individuals who had previously requested such notice, and published the Notice of Availability on June 15, 2008, in a newspaper of general circulation in the Project area

U. All potential significant adverse environmental impacts were sufficiently analyzed in the Draft SEIR which included a complete copy of the 1988 Final EIR as Appendix B.

V. The Planning Commission of the City conducted public hearings and considered the Project at its December 7, 2006, February 1, 2007, June 19, 2008, and July 3, 2008 meetings.

W. At their July 3, 2008 meeting, the Planning Commission voted to forward a recommendation to the City Council ("Council") to adopt the SEIR and mitigation measures contained therein as modified in the Planning Commission staff report dated July 3, 2008 and approve MS504-87CCII and the conditions of approval as modified in the Planning Commission staff report dated July 3, 2008.

X. During the 30-day comment period, the City consulted with and requested comments from all responsible and trustee agencies, other regulatory agencies and others pursuant to State CEQA Guidelines section 15086.

Y. During the official public review period for the Draft SEIR, the City received approximately 89 written comments, none of which were submitted by any responsible, trustee, or regulatory agency or any city or county agency.

Z. The City evaluated those comments and prepared written responses thereto that provide detailed reasons regarding the disposition of all comments (collectively "Responses to Comments").

AA. The City Council has reviewed and considered the information contained in the Draft SEIR, 1988 Final EIR, and Responses to Comments (collectively "FSEIR") and has endeavored in good faith to set forth the basis for its decision on the Project and the City is satisfied all the requirements of CEQA, and the State CEQA Guidelines in the preparation of the FSEIR, which is sufficiently detailed so that all of the potentially significant environmental effects of the Project, as well as feasible mitigation measures, have been adequately evaluated.

BB. The FSEIR prepared in connection with the Project sufficiently analyzes the feasible mitigation measures necessary to avoid or substantially lessen the Project's potential environmental impacts in accordance with CEQA and the State CEQA Guidelines.

CC. The Mitigation Monitoring and Reporting Program sets forth the mitigation measures to which the City shall bind itself in connection with this Project and is attached hereto as Exhibit A.

DD. Prior to taking action, the Council has heard, been presented with, reviewed and considered all of the information and data in the administrative record, including the FSEIR, and all oral and written evidence presented to it during all meetings and hearings.

EE. The FSEIR reflects the independent judgment of the Council and is deemed adequate for purposes of making decisions on the merits of the Project.

FF. The City has not received any comments or additional information that constitutes substantial new information requiring recirculation or additional environmental review under Public Resources Code section 21092.1 and State CEQA Guidelines section 15088.5.

GG. On July 28, 2008 and August 11, 2008, the Council conducted duly noticed public hearings on this Project, at which time all persons wishing to testify were heard and the Project was fully considered.

HH. All of the findings and conclusions made by the Council pursuant to this Resolution are based upon substantial evidence in the entire record before the Council, and are not based solely on the information provided in this Resolution.

II. All other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAFAYETTE, CALIFORNIA, FINDS AND DETERMINES AS FOLLOWS:

SECTION I
FINDINGS REQUIRED BY THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

A. Legal Requirements

Public Resources Code § 21002 states that "public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects[.]" Section 21002 further states that the procedures required by CEQA "are intended to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects."

Pursuant to Section 15091 of the State CEQA Guidelines, the City may only approve or carry out a project for which an EIR has been completed that identifies any significant environmental effects if the City makes one or more of the following written finding(s) for each of those significant effects accompanied by a brief explanation of the rationale for each finding:

1. Changes or alterations have been required in, or incorporated into, the project which will avoid or substantially lessen the significant environmental impact as identified in the EIR; or

2. Such changes or alterations are within the responsibility and jurisdiction of a public agency other than the City, and such changes have been adopted by such other agency, or can and should be adopted by such other agency; or

3. Specific economic, social, legal or other considerations make infeasible the mitigation measures or project alternatives identified in the EIR.

Notably, § 21002 requires an agency to "substantially lessen or avoid" significant adverse environmental impacts. Thus, mitigation measures that "substantially lessen" significant environmental impacts, even if not completely avoided, satisfy § 21002's mandate. (Laurel Hills Homeowners Association v. City Council (1978) 83 Cal.App.3d 515, 521 ("CEQA does not mandate the choice of the environmentally best feasible project if through the imposition of feasible mitigation measures alone the appropriate public agency has reduced environmental damage from a project to an acceptable level"); Las Virgenes Homeowners Federation, Inc. v. County of Los Angeles (1986) 177 Cal. App. 3d 300, 309 ("[t]here is no requirement that adverse impacts of a project be avoided completely or reduced to a level of insignificance . . . if such would render the project unfeasible").)

CEQA requires that lead agencies adopt feasible mitigation measures or alternatives to substantially lessen or avoid significant environmental impacts. An agency need not, however, adopt infeasible mitigation measures or alternatives. (State CEQA Guidelines, § 15091, subds. (a), (b).) Public Resources Code section 21061.1 defines "feasible" to mean "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." State CEQA Guidelines section 15091 adds "legal" considerations as another indicia of feasibility. (See also Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 565.) Project objectives also inform the determination of "feasibility." (City of Del Mar v. City of San Diego (1982) 133 Cal.App.3d 401, 417.) "'[F]easibility' under CEQA encompasses 'desirability' to the extent that desirability is based on a reasonable balancing of the relevant economic, environmental, social, and technological factors." (Id.; see also Sequoyah Hills Homeowners Assn. v. City of Oakland (1993) 23 Cal.App.4th 704, 715.)

Environmental impacts that are less than significant do not require the imposition of mitigation measures. (Leonoff v. Monterey County Board of Supervisors (1990) 222 Cal.App.3d 1337, 1347.)

The California Supreme Court has stated, "[t]he wisdom of approving . . . any development project, a delicate task which requires a balancing of interests, is necessarily left to the sound discretion of the local officials and their constituents who are responsible for such decisions. The law as we interpret and apply it simply requires that those decisions be informed, and therefore balanced." (Citizens of Goleta Valley v. Board of Supervisors (1990) 52 Cal.3d 553, 576.) In addition, perfection in a project or a project's environmental alternatives is not required; rather, the requirement is that sufficient information be produced "to permit a reasonable choice of alternatives so far as environmental aspects are concerned." Outside agencies (including courts) are not to "impose unreasonable extremes or to interject [themselves] within the area of discretion as to the choice of the action to be taken." (Residents Ad Hoc Stadium Com. v. Board of Trustees (1979) 89 Cal.App.3d 274, 287.)

B. Summary of Environmental Findings

At regular sessions assembled on July 28, 2008 and August 11, 2008, the Council determined that based on all of the evidence presented, including, but not limited to, the FSEIR, written and oral testimony given at meetings and hearings, and submission of comments from the public, organizations and regulatory agencies, the following environmental impacts associated with the Project are: 1) less than significant and do not require mitigation; or 2) potentially significant but can be avoided or reduced to a level of insignificance through the identified mitigation measures. This document contains the findings required under the California Environmental Quality Act ("CEQA") (Public Resources Code, §§ 21000 et seq.) and the State CEQA Guidelines (California Code of Regulations, title 14, §§15000 et seq.).

Public Resources Code section 21081.6 requires the City to prepare and adopt a Mitigation Monitoring and Reporting Program for any Project for which mitigation measures have been imposed to assure compliance with the adopted mitigation measures. As set forth below, the City is adopting a Mitigation Monitoring and Reporting Program for the Project in this resolution.

No comments made in the public hearings conducted by the Planning Commission or City Council or any additional information submitted to the City constitutes substantial new information requiring recirculation or additional environmental review of the FSEIR under CEQA because no new significant environmental impacts were identified, no substantial increase in the severity of any environmental impacts would occur, and no feasible Project mitigation measures or Project alternatives as defined in State CEQA Guidelines section 15088.5 were rejected.

SECTION II
FINDINGS REGARDING ENVIRONMENTAL IMPACTS DETERMINED TO NOT BE SIGNIFICANT

Pursuant to the 1988 Final EIR, 2008 Initial Study, and comments received during the NOP, various issues/impacts were identified as having no or less than significant impacts. The Council finds the following impacts to be less than significant: [Christine: Normally we break down these issues by headings as they were presented in the EIR so that the issues are more palatable. For example, we would put "Land Use and Planning" or "Geology and Soils" as a heading and list underneath of those headings the specific issues you have identified below. Additionally, we would typically include a very brief explanation (a couple sentences) stating why each impacts is less than significant. This section is, however, optional, such that there is a great deal of flexibility in the way it is set up. If due to time constraints you prefer to leave it as-is, that would be alright.]

a. The proposed project will not be inconsistent with the General Plan.

b. The proposed project will not be inconsistent with the current zoning.

c. The proposed project will not be inconsistent with hillside and ridgeline regulations.

d. The proposed project will not result in construction of facilities in the area of a known fault.

e. The proposed project will not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death, involving the rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault.

f. The proposed project will not result in the destruction, covering or modification of any unique geologic or physical features.

g. The proposed project will not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death, involving seismic-related ground failure, including liquefaction.

h. The proposed project will not result in the construction of facilities in a known flood hazard area.

i. The proposed project will not place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map.

j. The proposed project will not expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam.

k. The proposed project will not expose people or structures to a significant risk of loss, injury or death involving inundation by seiche, tsunami, or mudflow.

l. The proposed project will not place within a 100-year flood hazard area structures which would impede or redirect flood flows.

m. The proposed project will not result in alterations to the course or flow of flood waters.

n. The proposed project will not result in a change in the amount of surface water in any water body.

o. The proposed project will not result in the creation of objectionable odors.

p. The proposed project will not result in a significant increase in the ambient noise level.

q. The proposed project will not result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.

r. The proposed project will not result in the disruption or destruction of an official tree grove or a designated Grand Tree.

s. The proposed project will not result in significant change in the diversity or number of animal species or adversely impact any state or federally listed special status species. Studies conducted for the Project conclude that the project site lacks suitable habitat for the Alameda whipsnake and California red-legged frog. No evidence of the existence of Bridge's Coast Range shoulderband snail was found. No nests of Cooper's Hawk were located in suitable woodland habitat on or near the project site.

t. The proposed project will not result in an adverse effect on any state or federally listed special status plant species. Studies conducted for the Project conclude that of the two previously identified populations of Diablo rockrose, only one population still exists and is located outside the development area. There is no onsite evidence of the existence of the Santa Cruz tarplant.

u. The proposed project will not have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or U.S. Fish and Wildlife Service.

v. The proposed project will not conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance.

w. The proposed project will not have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act through direct removal, filling, hydrological interruption, or other means.

x. The proposed project will not interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.

y. The proposed project will not conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved, local, regional or state habitat conservation plan.

z. The proposed project will not produce significant light or glare.

aa. The proposed project will not result in significant risk of fire or explosion or release of hazardous substances.

bb. The proposed project will not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.

cc. The proposed project will not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.

dd. The proposed project will not emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school.

ee. The proposed project will not be located on a site that is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment.

ff. The proposed project will not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.

gg. The proposed project will not significantly alter the location, density, or distribution of population.

hh. The proposed project will not physically divide an established community.

ii. The proposed project will not displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere.

jj. The proposed project will not result in a significant decrease in the availability of low-cost housing.

kk. The proposed project will not result in a significant decrease in property value in the area of the project.

ll. The proposed project will not induce substantial population growth in an area, either directly or indirectly.

mm. The proposed project will not result in a significant increase in traffic hazards to pedestrians and bicyclists.

nn. The proposed project will not result in a significant parking problem, increase in parking demand, or inadequate parking capacity.

oo. The proposed project will not cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system.

pp. The proposed project will not exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways.

qq. The proposed project will not result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risk.

rr. The proposed project will not result in inadequate emergency access.

ss. The proposed project will not conflict with adopted policies supporting alternative transportation (e.g., bus turnouts, bicycle racks)?

tt. The proposed project will not significantly increase the demand for public services and facilities including fire protection service, police service, sewer service, natural gas or electric service, communication services, domestic water service, school facilities, park and recreation facilities, solid waste disposal services, maintenance of public facilities, including roads, and public transportation.

uu. The proposed project will not result in the use of significant amounts of fuel or energy, significantly increase the demand on existing sources of energy or require the development of new sources of energy.

vv. The proposed project will not result in removal or damage to a historical monument or structure. The 1988 Final EIR stated that development on Parcel B may affect the steel post and historical marker indicating the original boundaries of three historic ranchos at the northwest corner of the project site. It has since been documented that this steel post and historical marker are located on an adjacent property and not within the boundaries of the project site (Draft SEIR, p. 77.)

ww. The proposed project will not result in the disruption or destruction of a known archaeological or paleontological site or a unique physical feature.

xx. The proposed project will not disturb any human remains, including those interred outside of formal cemeteries?

yy. The proposed project will not result in the disruption or destruction of an important recreational resource.

zz. The proposed project will not substantially damage to scenic resources, including, but not limited to trees, rock outcroppings, and historic buildings within a state scenic highway.

aaa. The proposed project will not convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland) as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use.

bbb. The proposed project will not conflict with existing zoning for agricultural use, or a Williamson Act contract.

ccc. The proposed project will not involve other changes in the existing environment that, due to their location or nature, could result in conversion of Farmland, to non-agricultural use.

ddd. The proposed project will not conflict with or obstruct implementation of the applicable air quality plan.

eee. The proposed project will not expose sensitive receptors to substantial pollutant concentrations.

fff. The proposed project will not result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard.

ggg. The proposed project will not substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.

hhh. The proposed project will not substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site.

iii. The proposed project will not conflict with any applicable land use plan, policy or regulation of an agency with jurisdiction over the project adopted for the purpose of avoiding or mitigating an environmental effect.

jjj. The proposed project will not conflict with any applicable habitat conservation plan or natural communities conservation plan.

kkk. The proposed project will not result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state.

lll. The proposed project will not result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan.

mmm. The proposed project will not expose persons to or generate noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies.

nnn. The proposed project will not expose persons to or generate excessive groundborne vibration or groundborne noise levels.

ooo. The proposed project will not result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.

ppp. The proposed project will not increase the use of existing neighborhood or regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated.

qqq. The proposed project will not include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.

rrr. The proposed project will not exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board.

sss. The proposed project will not require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.

ttt. The proposed project will not require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.

uuu. The proposed project will have sufficient water supplies available to serve the project from existing entitlements and resources and not require new or expanded entitlements.

vvv. The project will not result in a substantial impact on the wastewater treatment provider which serves the project.

www. The proposed project will not have a substantial impact on the local landfill. The landfill serving the project has sufficient permitted capacity to accommodate the project's solid waste disposal needs.

xxx. The proposed project will comply with federal, state, and local statutes and regulations related to solid waste.

yyy. The proposed project will not significantly affect development of areas to the north and west (within the City of Orinda).

SECTION III
FINDINGS REGARDING POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACTS MITIGATED TO LESS THAN SIGNIFICANT LEVELS

The City Council hereby finds that: For each of the significant effects of the project identified in the FSEIR, changes or alterations have been required in, or incorporated into the project which avoid or substantially lessen the significant effect as identified in the FSEIR. These measures are adopted as conditions of approval of the project in Exhibit B. The significant effects and mitigation measures are summarized below. The full text of the impacts and mitigation measures are adopted as written in the FSEIR and mitigation monitoring and reporting program (Exhibit A).

Planning and Policy Context

Potential Impact: The housesite for Parcel C may encroach into the setback of the adjacent creek.

Statement of Facts: As estimated in the 1988 Final EIR, the building setback for Parcel C from the creek is 24 feet. As currently shown on the tentative map dated received May 6, 2008, the housesite for Parcel C is at least 100 from the centerline of the creek and complies with the creek setback ordinance. (Draft SEIR, p. 44.) With a current proposed setback of at least 100 feet, even if the housesite is moved farther south as suggested in the 2007 geologic report there should still be adequate room to construct a house outside the 24-foot creek setback. Mitigation measure 1 requires that the project comply with the City of Lafayette Creek Setback Ordinance through review of plot plans for individual parcels on the project site as part of the City's Design Review and Hillside Development Permit process. This mitigation measure is feasible and is hereby adopted and incorporated into the project as a condition of approval.

Finding: Pursuant to CEQA section 21081(a)(1), changes or alterations have been required in, or incorporated into, the project which mitigate this effect below a level of significance.

Mitigation Measure:

> *Mitigation Measure 1.* The City of Lafayette shall verify compliance with the Creek Setback Ordinance through review of plot plans for individual parcels on the project site as part of the City's Design Review and Hillside Development Permit process.

Traffic and Circulation

Potential Impact: The project could result in significant additional vehicle traffic outside the project boundaries.

Statement of Facts: The 1998 Final EIR noted that short-term and temporary increases in traffic and traffic congestion could be expected during the construction phase of project development as heavy equipment, machinery, and workers travel to and from the property. Use of heavy equipment such as bulldozers, scrapers, and backhoes will be required for remedial earthwork but will be able to be staged on-site and away from Happy Valley Road travel lanes. Additionally, the project includes an area on Parcel B where dirt involved in the remedial earthwork will be stockpiled further limiting the number of trips needed to haul earth. There may be some trips to remove debris from soil preparation and grubbing. To ensure that temporary increases in traffic and traffic congestion during the construction phase of project development are reduced to less than significant levels, a mitigation measure requiring review and approval by the City of a construction traffic control plan is required. (Draft SEIR, p. 46.) This mitigation measure is feasible and is hereby adopted and incorporated into the project as a condition of approval.

Finding: Pursuant to CEQA section 21081(a)(1), changes or alterations have been required in, or incorporated into, the project which mitigate this effect below a level of significance.

Mitigation Measure:

> *Mitigation Measure 4*: Prior to issuance of a grading or building permit, whichever occurs first, submit a construction traffic control plan to the City Engineering Services Manager for review and approval. The traffic control plan may include limitations on days and hours beyond those normally allowed for construction. The approved construction traffic control plan shall be implemented during all phases of active construction and may be modified by the City

Engineering Services Manager as required to ensure that impacts on area traffic and circulation are minimized to the maximum extent feasible.

Potential Impact: The project could result in hazardous placement of roadway or roadway/driveway intersection with Happy Valley Road.

Statement of Facts: The 1988 Final EIR identified a potential traffic hazard related to vehicle ingress and egress at the intersection of Happy Valley Road and the project driveway. Prior to this reconsideration of the project, the City Council required the property owner to obtain an encroachment permit from the City of Orinda for the construction of improvements to Happy Valley Road that would comply with the Caltrans standards for sight distance for traffic traveling at 25 miles per hour. An encroachment permit has been obtained and improvements to the intersection have been competed. These improvements will reduce the potential traffic hazards to a less than significant level. (Draft SEIR, pp. 45-46.) Implementation of mitigation measure 2 will confirm that the improvements have been completed per the approved plans. This mitigation measure is feasible and is hereby adopted and incorporated into the project as a condition of approval.

Finding: Pursuant to CEQA section 21081(a)(2), changes or alterations have been required in, or incorporated into, the project which mitigate this effect below a level of significance.

Mitigation Measures:

Mitigation Measure 2: If not already completed, the improvements to Happy Valley Road pursuant to City of Orinda Encroachment Permit No. 06-130 shall be completed and accepted by the City of Orinda as part of the subdivision improvements. Recommended signing and pavement markings specified in Mitigation Measure 3 shall be installed prior to acceptance of subdivision improvements or issuance of building permits, whichever occurs first.

Potential Impact: The project could substantially increase hazards due to a design feature or incompatible uses.

Statement of Facts: The 1988 Final EIR identified a potential traffic hazard related to the design of Happy Valley Road and its intersection with the project driveway. In addition to the improvements to be implemented by the City of Orinda encroachment permit and mitigation measure 2, mitigation measure 3 requires the installation of pavement markings and signage to enhance safety along this section of Happy Valley Road. Mitigation measure 3 is feasible and is hereby adopted and incorporated into the project as a condition of approval.

Finding: Pursuant to CEQA section 21081(a)(1), changes or alterations have been required in, or incorporated into, the project which mitigate this effect below a level of significance.

Mitigation Measure:

Mitigation Measure 3: Roadway improvement plans shall include mitigation of potential hazards at this intersection. Specific recommendations, subject to review and approval by the City of Orinda, include:

a. Installation of an advanced curve warning sign and supplemental 20 mph sign facing southbound drivers approaching the curve;
b. Installation of a series of chevron arrow warning signs around the curve facing downhill drivers;

c. Addition of reflectors to the guard rail;
d. Restriping of Happy Valley Road from Sundown Terrace to the Lafayette city limits in addition to what is included in City of Orinda Encroachment Permit No. 06-130.

Recommended signing and pavement markings specified above shall be installed prior to acceptance of subdivision improvements or issuance of building permit, whichever occurs first.

Geotechnical Considerations

Potential Impact: The project would result in construction of facilities in a known landslide area or expose people or structures to potential substantial adverse effects involving landslides. Seismically induced ground shaking with minor structural damage may occur.

Statement of Facts: Geotechnical studies, including subsurface investigation, were conducted for the project site in 1987 and 1988 as part of the Final EIR and in 2006 and 2007 as part of the current project. The reports were prepared by the project engineering geologist and peer-reviewed by the City's geotechnical consultant and indicate that potential landslide activity may affect development on parcels B and C and the interior access road. Potential ground shaking could cause severe damage to buildings if they are not properly designed for earthquake forces. The reports conclude that unstable soils can be repaired and/or remediated through regrading, excavation, installation of drained engineered buttress fill, or avoided. Instead of installing buttress fills at the roadway and at the toe of the landslide repair and leaving the middle in place for the landslide in the northeastern section of Parcel B as originally proposed, the current plan is to repair the entire slide. The landslide at the parcel B/C property line and the swale on Parcel C would be excavated and replaced with compacted fill. (Draft SEIR, pp. 52-56.) To ensure that the project would not experience substantial adverse effects from slope instability and that impacts of project implementation would be less than significant, mitigation measure 5 is required. As approved by the Planning Commission on July 3, 2008 and to respond to comments on the Draft SEIR and further clarify the intent and anticipated scope of subsurface investigations and analyses to be included in the design-level improvement plans, mitigation measure 5 was revised after circulation of the Draft SEIR. As revised, mitigation measure 5 is only an amplification of existing analyses so recirculation of the Draft SEIR is not required.

Mitigation measure 6 is required to ensure that the individual homesites are properly designed to resist seismically induced ground shaking. To respond to comments on the Draft SEIR and further clarify the intent and timing for design-level studies for the individual homesites, mitigation measure 6 was revised after the circulation of the Draft SEIR. Also, portions of mitigation measure 6 were merged with mitigation measure 5. As revised, mitigation measure 6 is only an amplification of existing analyses so recirculation of the Draft SEIR is not required.

Mitigation measure 7 requires the submittal of detailed improvement and civil plans for the subdivision and, as necessary, may require that subsurface investigations be conducted to support the design of improvements. As noted above, mitigation measure 6 was revised. Reference to mitigation measure 6 in this mitigation measure has been deleted since mitigation measure 6 applies to studies required at the design review and hillside development application stage for the individual homesites and are not a part of subdivision improvement plans. As revised, mitigation measure 7 is only an amplification of existing analyses so recirculation of the Draft SEIR is not required.

Mitigation measure 8 requires the applicant to conduct a study to determine the extent to which an existing on-site landslide may impact development in the northeastern corner of the project site.

Mitigation measures 5, 6, 7, and 8 are feasible and are hereby adopted and incorporated into the project as conditions of approval.

Finding: Pursuant to CEQA section 21081(a)(1), changes or alterations have been required in, or incorporated into, the project which mitigate this effect below a level of significance.

Mitigation Measures:

Mitigation Measure 5: The two landslides on the site shall be repaired. These slides can be repaired by conventional removal and recompaction operations. All landslide repairs and remedial grading shall implement the recommendations of the geotechnical engineer, Purcell, Rhoades & Associates, as contained in the Geotechnical Study Update, June 1, 2006 and Supplemental Investigation Report, July 26, 2007, or as amended by the City Engineering Services Manager.

At the discretion of the Engineering Services Manager and his consultant(s), additional field investigation and analysis may need to be conducted to determine the final depth of remedial earthwork. The additional field investigations may include large diameter, downhole logged borings. The scope of design-level plans and location of subsurface testing and related investigations shall be coordinated with the City Engineering Services Manager. Design-level plans may include cross-sections to coordinate drain bench and subdrain elevations and flow directions. The Engineering Services Manager shall have final discretion in determining the scope and nature of any and all remedial work required. Where appropriate, as determined by the City Engineer, improvements and environmental mitigation measures required by the conditions of approval and all other applicable conditions of approval shall be incorporated into improvement plans.

Prior to submittal of grading and improvement plans to the City Engineering Services Manager for review and approval, the plans shall be reviewed by the project geotechnical engineer to ensure that the recommendations and specifications have been included. Plans shall include the re-establishment, as feasible, of topographic contours as they existed prior to remedial earthwork.

During landslide and soil stabilization work, the project geotechnical engineer or engineering geologist, or their representative, must be present to observe the work performed and to perform whatever testing is necessary to properly evaluate the quality of the materials and their relative compaction and to ensure compliance with approved plans.

Mitigation Measure 6: Prior to submittal of design review and hillside development permit applications for the individual homesites, design-level subsurface testing and investigations shall be conducted to determine design parameters for house foundations and improvements. The scope and location of subsurface testing and related investigations shall be coordinated with the City Engineering Services Manager. Subsequent subsurface testing and related reports shall be subject to review and approval by the City Engineering Services Manager.

Mitigation Measure 7: Prior to final map approval by the City, the applicant shall submit detailed improvement and civil plans per the City Engineer's requirements. Said plan shall be prepared by a registered civil engineer. All public improvements shall be designed to City of Lafayette standards and to accepted engineering design standards. The City Engineer has all such standards on file and the Engineer's decision shall be final regarding the specific standards that shall apply. Where appropriate, as determined by the City Engineer, improvements and environmental mitigation measures required by the conditions of approval and all other applicable conditions of

approval shall be incorporated into improvement plans. Design-level subsurface testing and investigations shall be conducted. The scope and location of subsurface testing and related investigations shall be coordinated with the City Engineer. Subsequent subsurface testing and related reports shall be subject to review and approval by the City Engineer. The City Engineer shall have final discretion in determining the scope and nature of any and all remedial work required.

Mitigation Measure 8: The project applicant shall conduct an investigation of the existing landslide underlying Happy Valley Road in the northeastern corner of the project site. The study shall determine the extent to which the proposed project would affect landslide activity in this area, and identify any necessary repairs required by project impacts. The results of this study shall be reflected in the plans to be reviewed by the project geotechnical engineer, prior to review and approval by the City Engineering Services Manager. The Engineering Services Manager shall have final discretion in determining the scope and nature of any and all remedial work required.

Potential Impact: The project will result in significant changes in topography.

Statement of Facts: Remedial earthwork will be required to mitigate on-site landslides and unstable soils which have the potential to alter topography. Improvement and grading plans will be required to show re-establishment of pre-existing topography. Graded slopes will also have to be revegetated. Implementation of mitigation measures 5, 26, and 27 will reduce this impact to a less than significant level. Mitigation measures 5, 26, and 27 are feasible and are hereby adopted and incorporated into the project as conditions of approval.

Finding: Pursuant to CEQA section 21081(a)(1), changes or alterations have been required in, or incorporated into, the project which mitigate this effect below a level of significance.

Mitigation Measure:

Mitigation Measure 5: See above.

Mitigation Measure 26: To reduce the visual impacts of conventional grading and retaining walls, subdivision improvement plans shall include use of topographic berms, boulders, and natural landscape amenities.

Mitigation Measure 27: Prior to approval of the final map or issuance of a grading permit, whichever occurs first, the applicant shall submit a re-vegetation plan for the areas subject to remedial earthwork and for the stockpile area. The re-vegetation plan shall include native plant species to replace and enhance the amount and type of vegetation removed or impacted.

Potential Impact: The project would result in creation of significant unstable earth conditions or expose people or structures to potential substantial adverse effects involving unstable soils or geologic units or cause soils or geologic units to become unstable.

Statement of Facts: The proposed project would be located on expansive soil creating potential risks to life or property. Implementation of mitigation measures 5 and 6 and mitigation measure 9 requiring specific construction or soil treatment techniques will ensure that impacts related to expansive soils will be less than significant. (Draft SEIR, pp. 48, 55, 57.) Although mitigation measure 9 states that a thick layer of non-expansive imported material would likely be needed to help provide stability to the roadway section, this will not result in a significant impact. It will not be necessary to import large volumes of soil

in order to make the access road stable because on-site soils can be used for the sub grade beneath the structural pavement section for the road. The only imported materials required for the road would be the aggregate base rock and the asphalt. These materials are required to be imported to the site on every grading project.

Mitigation measures 5, 6, and 9 are feasible and are hereby adopted and incorporated into the project as conditions of approval.

Finding: Pursuant to CEQA section 21081(a)(1), changes or alterations have been required in, or incorporated into, the project which mitigate this effect below a level of significance.

Mitigation Measure:

Mitigation Measure 5: See above.

Mitigation Measure 6: See above.

Mitigation Measure 9: The expansive soils in the area will have future shrink and swell characteristics. All house foundations and super-structures should be carefully designed by an experienced structural engineer. Particular care should be given to connections, hold-downs, and reinforcement aspects of the house design. All house foundations should consist of drilled piers which are extended well into the bedrock underlying the surficial soils. The piers should be interconnected, designed to resist lateral creep forces, and contain voids below the grade beams. Retaining walls should also be designed for relatively high creep forces. The roadway designs should also take into consideration the uplift forces from the expansive soils. It is likely that a thick layer of non-expansive imported materials would be needed to help provide stability to the roadway section. Imported material would also likely be needed under any slab-on-grade improvements, walkways, or patios in the building areas. Proper surface drainage measures around the proposed homes would also help to minimize danger from expansive soils. Such measures would include collection of gutter downspouts to discharge pipes, collection of water on paved surfaces, and collection of water on the uphill side of the homes. Prior to issuance of a building permit, the applicant shall submit plans to the City Engineering Services Manager for review and approval. The plans shall demonstrate that the foundation design for the proposed structures, access road, and retaining walls have included the recommendations contained in the Geotechnical Study Update, June 1, 2006 or as amended by the City Engineering Services Manager. Prior to submittal to the City Engineering Services Manager for review and approval, the plans shall be reviewed by the project geotechnical engineer to ensure that the recommendations and specifications have been included.

Potential Impact: The project could result in significant erosion or siltation problems or expose people or structures to potential substantial adverse effects involving substantial soil erosion or the loss of topsoil.

Statement of Facts: Remedial earthwork and other grading activities could result in erosion or siltation problems. (Draft SEIR, pp. 52-55.) Mitigation measure 10 requires the preparation of a storm water pollution prevention plan to address erosion control measures including slope stabilization and hydroseeding of graded areas. Mitigation measure 11 requires that the soil stockpile area meet specific design criteria. Implementation of these mitigation measures will reduce construction-related erosion and siltation impacts to less than significant levels. These mitigation measures are feasible and hereby adopted and incorporated into the project as conditions of approval.

Finding: Pursuant to CEQA section 21081(a)(1), changes or alterations have been required in, or incorporated into, the project which mitigate this effect below a level of significance.

Mitigation Measure:

Mitigation Measure 10: Erosion in the graded areas shall be minimized by proper planting of vegetative materials and placement of erosion control fabrics. Care should be taken in the selection of seed varieties, the time of placement of these materials, the mulching components, and any fabrics used. A landscape architect experienced in erosion control stabilization measures shall be retained to work with the design civil engineer in establishing the proper erosion control measures in graded areas. Silt fences and other retention devices should be installed at the lower ends of any graded areas to minimize the likelihood of eroded materials passing on to downslope properties or clogging improvements. Prior to Improvement Plan approval or issuance of a grading permit, whichever occurs first, the applicant shall prepare and submit a detailed erosion control plan (ECP) to the city Engineering Services Manager for review and approval. The purpose of the ECP shall be to mitigate erosion and sedimentation impacts during construction. At a minimum, the ECP shall include the following:

a. A proposed schedule of grading activities, monitoring, and infrastructure milestones in chronological format;
b. Identification of critical areas of high erodibility potential and/or unstable slopes;
c. Contour and spot elevations indicating runoff patterns before and after grading;
d. Identification of erosion control measures on slopes, lots and streets. Measures shall be based on recommendations contained in the "Erosion and Sediment Control Field Manual" published by the San Francisco Regional Water Quality Control Board (RWQCB);
e. Utilization of soil stabilization techniques such as short-term biodegradable erosion control blankets and hydroseeding;
f. Retention of a landscape architect experienced in erosion control stabilization measures to work with the design civil engineer in establishing the proper erosion control measures in graded areas; and
g. Post-construction inspection of all drainage facilities for accumulated sediment, and the cleaning of these drainage structures of debris and sediment.

The ECP shall be described in the Storm Water Pollution Prevention Plan (SWPPP) prepared for the project.

Mitigation Measure 11. To minimize impacts to neighboring properties and existing vegetation, the stockpile area shall be at least 25 feet from the nearest residence and be limited to the grassland area. Prior to final map approval or issuance of a grading permit, a plan showing a stockpile location meeting these criteria shall be submitted to the Planning Services Division for review and approval. No equipment, construction materials or dirt shall be placed within the dripline of any trees or within northern coastal scrub habitat. Prior to issuance of a grading or building permit, whichever occurs first, six-foot high fencing shall be installed to protect the northern coastal scrub habitat and adjacent trees. Placement of protective fencing shall be supervised in the field by the botanical consultant.

Storm Drainage and Runoff

Potential Impact: The project may significantly change drainage patterns or result in significant increases in the rate and amount of surface water runoff and create.

Statement of Facts: Project development will result in new impervious surfacing through construction of the access road, buildings, patios, and parking and driving areas and will result in an increase in storm water runoff. Existing drainage patterns may be altered. The 1988 Final EIR indicated that these impacts could be mitigated to less than significant levels. With a reduction in the number of dwelling units from seven to three, hydrologic impacts will be further reduced. Stormwater detention facilities proposed by the project will be used to limit post-development peak flows. Further, the hydrology impacts of cumulative development within the City were analyzed in the City's General Plan EIR. (Draft SEIR, pp. 60-65.) Implementation of mitigation measures 12, 13, 14, and 15 requiring preparation of stormwater control plans, on-site stormwater detention and payment of drainage impact fees will mitigate potential impacts to less than significant levels by ensuring that drainage patterns are not altered and that surface water runoff created by the project will remain at or below the runoff conditions documented in the Final EIR. Mitigation measures 12, 13, 14, and 15 are feasible and are hereby adopted and incorporated into the project as conditions of approval.

Finding: Pursuant to CEQA section 21081(a)(1), changes or alterations have been required in, or incorporated into, the project which mitigate this effect below a level of significance.

Mitigation Measures:

Mitigation Measure 12: The City shall review and approve the project drainage plan to determine its adequacy to accommodate the 10-year event. Where practical, the subdrain system shall discharge into the on-site drainage system. The stormwater control plan shall meet the requirements of the City's stormwater pollution prevention plan and the Contra Costa County Clean Water Program. Prior to approval of an improvement plan or issuance of a grading permit, whichever occurs first, the applicant shall submit to the City Engineering Services Manager a final hydrology and hydraulic analysis of the existing storm drain system to its discharge to Happy Valley Creek. The final hydrology and hydraulic analysis shall demonstrate to the satisfaction of the City Engineering Services Manager that the project meets following performance criteria including but not limited to:

a. Post-project peak run-off has been detained/retained onsite, and
b. That detention systems have been constructed to handle adequately the 10-year storm runoff from buildout of the site. If the systems are determined to be inadequately sized, the systems shall be expanded to provide for adequate detention and to maintain peak discharge at or below the discharge/runoff conditions documented in the Final EIR.

Mitigation Measure 13: The drainage plan for Parcel C shall direct runoff to Happy Valley Creek and away from existing residences to the northeast.

Mitigation Measure 14: Maximum use of on-site stormwater detention should be incorporated into the project where possible through appropriate design of drainage facilities.

Mitigation Measure 15: Prior to issuance of a building permit for home construction, the applicant shall pay the required Drainage Study Fee pursuant to Chapter 8-17, Lafayette Municipal Code.

Project Impact: The project may have the potential to violate water quality standards or waste discharge requirements or alter the drainage pattern of the site which would result in substantial erosion or siltation on- or off-site.

Statement of Facts: Project development will require grading for the interior access road and remedial earthwork to repair unstable soils. Temporary effects of these construction activities would result in soil disturbance and could lead to an increase in soil erosion and sedimentation and impact water quality. Sedimentation can lead to a reduction of water quality because sediment can carry nitrogen, phosphorus and trace metals. Sediment can also accumulate at the entrance of downstream storm drain system inlets and reduce capacity. Vegetative cover, which acts to stabilize the soil, would be removed from areas where earthwork and grading activities would occur. Impacts from erosion and sedimentation can be mitigated to less than significant levels through implementation of mitigation measures 16, 17, and 18 which require preparation and implementation of stormwater pollution prevention plans. (Draft SEIR, pp. 62-65.) Mitigation measures 16, 17, and 18 are feasible and are hereby adopted and incorporated into the project as conditions of approval.

Finding: Pursuant to CEQA section 21081(a)(1), changes or alterations have been required in, or incorporated into, the project which mitigate this effect below a level of significance.

Mitigation Measures:

Mitigation Measure 16: The applicant's drainage plan shall include the use of temporary facilities to divert or control runoff during construction to avoid the possibility of uncontrolled erosion during or following construction. Other long-term and permanent erosion control methods include landscaping and the selective use of drainage swales and subdrains. All such erosion control measures shall be described in the Storm Water Pollution Prevention Plan prepared for the project. Hydroseeding for remedial earthwork and erosion control shall use a native grassland mix appropriate for this hillside location.

Mitigation Measure 17: Prior to issuance of grading or building permits, whichever occurs first, the applicant shall comply with NPDES General Construction Activities Storm Water Permit Requirements established by the CWA including preparation of a SWPPP. The SWPPP shall identify specific types and sources of storm water pollutants, determine the location and nature of potential impacts, and specify appropriate control measures to eliminate any potentially significant impacts to receiving water quality from storm water runoff. In addition to complying with the standards established by the CWA for preparation of a SWPPP, the SWPPP shall also comply with the directions for preparing a SWPPP contained in the latest edition of the Guidelines for Construction Projects published by the California Regional Water Quality Board San Francisco Region.

Mitigation Measure 18. Prior to issuance of grading or building permits, whichever occurs first, the project sponsor shall submit to the City Engineering Services Manager a copy of the Notice of Intent (NOI) and SWPPP sent to the State Water Resources Control Board.

Biologic and Habitat Considerations

Potential Impact: The project has the potential to result in a significant change in the diversity or number of species.

Statement of Facts: Biological resource surveys for special status species were conducted in 1988, 2005, 2006, and 2008. The 1988 Final EIR identified potential impacts to grassland, oak woodland, and riparian habitats and to the special status species, Diablo rockrose. Results of the surveys indicated that there are no special status plant species located in the proposed development areas including Bridge's Coast Range shoulderband snail, there is only marginal habitat for the Santa Cruz tarplant and the Alameda whipsnake, and there is no suitable habitat for the California red-legged frog. No nesting

raptors were observed during site surveys. Due to the reduced density and design of the current project, there will be no impacts on riparian habitat and the Diablo rockrose. The project will continue to have no direct or indirect impacts on special status species or result in a significant change in the diversity or number of species. Despite this, mitigation measures 23 and 24 would require that pre-construction survey for Alameda whipsnake, California red-legged frog, and nesting raptors be conducted to confirm that all past studies still hold true. (Draft SEIR, pp. 65-73.) Mitigation measures 23 and 24 are feasible and are hereby adopted and incorporated into the project as conditions of approval.

Finding: Pursuant to CEQA section 21081(a)(1), changes or alterations have been required in, or incorporated into, the project which mitigate this effect below a level of significance.

Mitigation Measures:

Mitigation Measure 23: A preconstruction survey for the California red-legged frog and the Alameda whipsnake shall be conducted of the areas of the project site that would be affected prior to construction. Upon completion of the preconstruction survey, survey results shall be reported to the Planning Services Division. If evidence of these or other special status species is found, the California Department of Fish and Game shall be consulted.

Mitigation Measure 24: A preconstruction survey shall be conducted for nesting raptors within 250 feet of any construction area within 21 days of construction. A buffer of a radius of at least 250 feet shall be established between any nesting raptor and construction activity. The project sponsor shall submit plans to the Planning Services Division showing the buffer area and protection measures such as fencing or other measure(s) approved by the City. This buffer shall be maintained until the chicks fledge, unless a biologist experienced with raptor nesting behavior determines that the buffer can be reduced without stressing the nesting raptor.

Potential Impact: The project has the potential to result in deterioration to existing fish and wildlife habitat.

Statement of Facts: The project site contains non-native grassland, northern coastal scrub, riparian, and oak woodland habitats. Non-native grassland would be directly affected by construction of houses on Parcels A and C and construction of the new access road. Loss of non-native weedy species found in this habitat would not have an adverse impact on the biotic resources of the site. Remedial earthwork will affect non-native grassland and about .4 acres of northern coastal scrub. Fifteen trees will be removed due to failing health and direct and indirect impacts of the remedial earthwork. The proposed on-site drainage plan includes an outfall to the creek on Parcel C. Impacts to fish and wildlife habitat can be mitigated to less than significant through implementation of mitigation measures 19, 20, 21, and 22. These mitigation measures require avoidance of, minimal disturbance to, or replacement of sensitive habitats. Mitigation measure 22 requires review of on-site drainage plans by the Department of Fish and Game. (Draft SEIR, pp. 65-73.) Mitigation measures 19, 20, 21, and 22 are feasible and are hereby adopted and incorporated into the project as conditions of approval.

Finding: Pursuant to CEQA section 21081(a)(1), changes or alterations have been required in, or incorporated into, the project which mitigate this effect below a level of significance.

Mitigation Measures:

Mitigation Measure 19. Any future development on Parcel B shall be planned for the northeast corner to avoid the more valuable wildlife habitats (oak woodland, coastal scrub, and riparian) to the west and southwest.

Mitigation Measure 20: Disturbance of grassland habitat during access road construction shall be confined to the area east of the proposed road to minimize any damage to more valuable habitats to the west.

Mitigation Measure 21: Construction and landscaping on Parcel C shall be carried out with minimum disturbance to oak woodland habitat. Placement of the driveway and house site shall avoid removal of oak woodland, and any lost habitat shall be replaced on an acre-per-acre basis on the parcel and in conformance with Chapter 6-17, Tree Protection, Lafayette Municipal Code. Landscape materials shall consist of only native, drought-tolerant species.

Mitigation Measure 22: On-site drainage plans shall be reviewed by the California Department of Fish and Game to determine if a Stream Alteration Agreement is required.

Visual, Cultural, and Other Environmental Considerations

Potential Impact: The project has the potential to result in significant obstruction of a scenic vista or view open to the public or result in significant long-term degradation of natural scenic qualities.

Statement of Facts: The current project is less intense than the projected build-out of the earlier project and visual impacts related to remedial grading, development of roads, and housing construction are expected to be reduced. With the passage of time, vegetation along Happy Valley Road and in the general area has matured and provides greater screening than it would have for the original project. Long-term aesthetic impacts would be less than significant through implementation of mitigation measure 25 which requires that development of each individual be reviewed through the City's Design Review and Hillside Development process to assess and mitigate aesthetic concerns. To minimize the appearance of retaining walls used in road construction, mitigation measure 26 requires the use of topographic berms, boulders, and natural landscape amenities. Visual impacts from remedial grading will be reduced to less than significant levels through implementation of mitigation measure 27 which requires re-vegetation of disturbed areas. (Draft SEIR, pp. 73-76.) Mitigation measures 25, 26, and 27 are feasible and are hereby adopted and incorporated into the project as conditions of approval.

Finding: Pursuant to CEQA section 21081(a)(1), changes or alterations have been required in, or incorporated into, the project which mitigate this effect below a level of significance.

Mitigation Measures:

Mitigation Measure 25: Plans for development of individual lots on the site shall be reviewed pursuant to the City's Design Review process to ensure that visual impacts are minimized. Possible measures to reduce visual impacts would include height and bulk restrictions and use of earth-tone colors in the design of the new houses, and screening through use of drought-tolerant and/or native landscaping. The applicant would be required to execute the City's standard landscape maintenance agreement prior to issuance of a permit for building construction to ensure that existing and new vegetation and landscaping is maintained.

Mitigation Measure 26: To reduce the visual impacts of conventional grading and retaining walls, subdivision improvement plans shall include use of topographic berms, boulders, and natural landscape amenities.

Mitigation Measure 27: Prior to approval of the final map or issuance of a grading permit, whichever occurs first, the applicant shall submit a re-vegetation plan for the areas subject to

remedial earthwork and for the stockpile area. The re-vegetation plan shall include native plant species to replace and enhance the amount and type of vegetation removed or impacted.

Potential Impact: The project has the potential to result in a significant impact if it would violate any air quality standard or contribute substantially to an existing or projected air quality violation.

Statement of Facts: As a small residential subdivision, the project falls far below the Bay Area Air Quality Management District's (BAAQMD) screening criteria, and is therefore not expected to be a substantial source of stationary source emissions. Remedial earthwork and home construction on individual lots may result in temporary construction impacts related to air quality. Such impacts would be less than significant with implementation of the mitigation measures recommended in the BAAQMD *CEQA Guidelines*. As listed in mitigation measure 28, those measures include dust suppression measures, covering loose soils, hydroseeding disturbed areas, and installing erosion control measures. (Draft SEIR, pp. 77-79.) This mitigation measure is feasible and is hereby adopted and incorporated into the project as a condition of approval.

Mitigation Measure:

Mitigation Measure 28: To ensure that potential construction impacts are less than significant, the following mitigation measures shall be implemented:

a. Water all active construction areas at least twice daily.
b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard.
c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites.
d. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites.
e. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets.

Additionally, in the event that the disturbance of greater than four acres is required, the following mitigation measures shall also be implemented:

a. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more).
b. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.)
c. Limit traffic speeds on unpaved roads to 15 mph.
d. Install sandbags or other erosion control measures to prevent silt runoff to public roadways.
e. Replant vegetation in disturbed areas as quickly as possible.

SECTION IV
RESOLUTION REGARDING CUMULATIVE IMPACTS

The City updated its General Plan in 2002 and certified the Revised Draft Environmental Impact Report for the Lafayette General Plan Revision, July 2002. That EIR explained that it is a program EIR that "addresses the cumulative effects of buildout of the entire City and its Sphere of Influence." Because the General Plan EIR analyzed cumulative impacts of development in the City, and because the Project is consistent with the City's General Plan and zoning, the General Plan EIR analyzed the cumulative impacts of this Project's development. Section 21083.3 of the Public Resources Code provides that an

EIR for a project that is consistent with a General Plan need only analyze impacts "which are peculiar to the parcel or to the project and which were not addressed as significant effects" in the General Plan EIR. Therefore, the SEIR does not repeat the analysis of cumulative impacts that appeared in the General Plan EIR; rather, the General Plan EIR is incorporated into the SEIR by reference.

SECTION V
RESOLUTION REGARDING SIGNIFICANT IMPACTS, SIGNIFICANT IRREVERSIBLE ENVIRONMENTAL CHANGES, AND SIGNIFICANT UNAVOIDABLE ENVIRONMENTAL CHANGES

State CEQA Guidelines §§ 15126 and 15126.2 require that an EIR address any significant impacts, significant irreversible environmental changes, and significant unavoidable environmental changes. As discussed above and as analyzed in the FSEIR, the Project will not result in any significant impacts or significant and unavoidable impacts, because all potential impacts have been mitigated to below a level of significance through the adoption of feasible mitigation measures. While the Final EIR identified a series of adverse effects that appeared to be unavoidable, the analysis in section 6.1 of the Draft SEIR concluded that these effects would no longer be unavoidable because of the reduced density of the Project, updated biological and geotechnical studies, and recommended mitigation measures. In addition, the Project would result in the consumption of minor quantities of natural resources and materials such as wood, building materials, and fuel. However, the amounts of resources used by the Project are minimal and common-place and would not result in a significant irreversible environmental change.

SECTION VI
RESOLUTION REGARDING GROWTH INDUCTING IMPACTS

According to CEQA Guidelines section 15126.2, subdivision (d), a project may foster economic or population growth, or the construction of additional housing, either indirectly or directly. Among other ways in which a project may be growth inducing, (1) a project may directly induce growth through, for example, the significant expansion of an area's housing stock or (2) a project may indirectly induce growth by removing a constraint, such as by providing extensions of utilities or other infrastructure. (State CEQA Guidelines § 15126.2(d).)

This Project will not result in any significant growth inducting impacts because it neither removes an obstacle to growth nor does it involve a significant expansion in the City's housing stock. Instead, and as described in the Final Supplemental EIR, this Project involves only a three-lot subdivision. The addition of this three-lot subdivision will not significantly expand the City's housing stock and will not result in any significant growth-inducing impacts.

SECTION VII
RESOLUTION REGARDING ALTERNATIVES

When significant impacts can be mitigated by the adoption of mitigation measures, the lead agency has no obligation to consider the feasibility of alternatives with respect to that impact in its findings, even if the alternative would mitigate the impact to a greater degree than the proposed project. (Pub. Resources Code, § 21002; Kings County Farm Bureau v. City of Hanford (1990) 221 Cal.App.3d 692, 730-731; Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 Cal.3d 376, 400-403; Laurel Hills Homeowners Association v. City Council (1978) 83 Cal.App.3d 515, 521.) Here, the City has adopted mitigation measures to avoid or substantially lessen all of the potentially significant environmental impacts identified in the Final EIR. Therefore, the City need not address alternatives in these findings. Nevertheless, the City provides the following observations regarding alternatives considered in the SEIR.

The alternatives analyzed in Chapter 5 of the Draft SEIR were selected for their potential to eliminate or reduce the impacts of the proposed project, and for their potential to generate fewer impacts or require lesser levels of mitigation. These alternatives included the No Project – No Development Alternative and the Revised Design Alternative.

The No Project Alternative would result in the project site remaining in its relatively undeveloped state. Under this alternative, the environmental conditions on the project site would not change and the impacts associated with project development would be avoided. Under this alternative, landslides and unstable soils would not be repaired, the scenic easement would not be enlarged, and an enhanced public trail easement would not be provided. Under the Revised Design Alternative, landslides and unstable soils would not be repaired and impacts associated with the remedial earthwork would not occur. Other impacts would remain the same as those resulting from the proposed project although potentially significant impacts could still be mitigated to a less than significant level.

The Draft SEIR identified The No Project – No Development Alternative as the environmentally superior alternative because it would avoid all of the potentially significant impacts of the proposed project in the short term. However, this alternative would not preclude the possibility of future development on the site and does not meet project objectives which include selling parcel A to East Bay Municipal Utility District for its Sunnyside Pumping Plant, enlarging an existing scenic easement, repairing on-site landslides and unstable soils, and providing a public trail easement. Therefore, while the impacts of the project would be completely avoided in the near term, future impacts could occur if the property were developed with a different project in the future. It is anticipated that the impacts of a future project on the site would be similar to or potentially more severe than those of the proposed project.

Where the No Project alternative is environmentally superior, CEQA provides the lead agency shall identify an environmentally superior alternative from the remaining alternatives. From among the remaining alternatives in the Supplemental EIR, the Revised Design Alternative would be environmentally superior.

SECTION VIII
RESOLUTION REGARDING CERTIFICATION OF EIR

The City Council finds that it has reviewed and considered the FSEIR and administrative record for the Project, including the 1988 Final EIR to which this Project's EIR is a supplement. The City Council finds that the FSEIR for the Project is an accurate and objective statement that fully complies with CEQA and the State CEQA Guidelines and that the FSEIR reflects the independent judgment of the City Council.

The City Council certifies the Environmental Impact Report based on the following findings and conclusions:

A. Findings.

1. All significant environmental impacts from the implementation of the proposed Project have been identified in the EIR and, with implementation of the identified mitigation measures, all impacts will be lessened to a level of less than significant.

2. Other reasonable alternatives to the proposed Project that could feasibly achieve the basic goals and objectives of the proposed Project have been considered and rejected in favor of the proposed Project.

SECTION IX
FINDINGS FOR APPROVAL OF A MINOR SUBDIVISION

The City Council has evaluated the findings to approve a minor subdivision pursuant to sections 6-215 and 6-216, Lafayette Municipal Code as follows:

1. The proposed subdivision will not be detrimental to the health, safety and general welfare of the city because potential impacts, including traffic and drainage, have been evaluated in the FSEIR and will be reduced to a less than significant level through implementation of mitigation measures 2, 3, 4, 5, 10, 11, 12, 13, 14, 25, and 28. Conditions of approval (13, 27, 33, 78, 81, 82, 83, and 85) including compliance with Contra Costa Fire Protection District standards, compliance with Central Contra Costa Sanitary District standards, compliance with the provisions of Chapter 5-2, Noise, Lafayette Municipal Code, and design and hillside development application review for the new homes are imposed to protect the general welfare of the community.

2. The proposed subdivision will not adversely affect the orderly development of property within the city because the subdivision complies with General Plan and R-40 zoning district standards and will create only three lots on property zoned for as many as twelve lots in an established residential neighborhood. All requisite utilities and infrastructure are in place or can be provided. Conditions of approval (5, 6, 9, 14, 22, 40, and 86) require the applicant to submit improvement, grading, and drainage plans to the City Engineering Services Manager for review and approval. Mitigation measures 12, 13, 14, and 15 require the applicant to provide on-site drainage facilities based on performance standards and the payment of drainage impact fees.

3. The proposed subdivision will not adversely affect the preservation of property values and the protection of the tax base within the city because public agencies that benefit from an increased tax base will benefit from the establishment of three single family dwellings on the vacant property. Single family dwellings on lots comparable or larger in size to those in the neighborhood will not adversely affect the property values of nearby properties. Mitigation measures 5, 6, and 7 require the mitigation of unstable soils. Mitigation measures 1, 19, 20, and 21 require the preservation of on-site habitat and visual resources as do conditions of approval 23, 32, 38, 62, and 63.

4. The proposed subdivision is consistent with the general plan and each element of it and will not adversely affect the policies and goals set forth in the general plan. The proposed subdivision is located in an area designated by the General Plan as Low Density Single Family Residential which allows up to two dwelling units per acre and the subdivision is designed at one dwelling unit per six acres. The design of the subdivision and improvements will protect the character and pattern of growth by complying with Fire District safety requirements and City of Lafayette engineering standards. Development is clustered to maximize the amount of land to be retained as open space. The project includes enhancement of existing conservation and trail easements.

5. The proposed subdivision will not create a nuisance or enforcement problem within the neighborhood because the project is designed or conditioned to comply with all fire safety and city engineering standards, will have minimal impacts on traffic volumes and safety, and the use is single family which is in keeping with the neighborhood. Temporary construction related impacts will be mitigated through implementation of mitigation measures 10, 11, 16, and 28 and conditions of approval 13, 15, 16, 18, 19, and 33.

6. The proposed subdivision will not encourage marginal development within the neighborhood because it has either been designed or conditioned to insure that all necessary public and private

improvements are made. By all indications, development of the property for each new single family dwelling will comply with R-40 zoning district requirements for setbacks, parking, and height and will not result in marginal development. Mitigation measures 5, 6, 8, 9, 12, 13, and 14 are proposed to address potential impacts from drainage and unstable soils. Mitigation measures 1, 25, and 26 require compliance with creek setbacks, mitigation of visual impacts related to infrastructure development, and design review of development plans for the individual lots. Conditions of approval 41, 80, and 85, respectively, require establishment of subdivision conditions, covenants, and restrictions, landscape maintenance agreements for each lot, and an operation and maintenance plan for on-site subdivision drainage facilities.

7. The proposed subdivision is consistent with the purpose section of the zoning district in which it is located. The R-40 zoning district does not have a purpose section. However, given that the lots are at least twice the size required by the R-40 zoning district, it is expected that single-family residential development of the property will comply with R-40 zoning district requirements for setbacks, parking, and height and will not result in marginal development. Mitigation measure 1 requires compliance with creek setbacks. Mitigation measure 25 requires design review of development plans for the individual lots.

SECTION X
FINDINGS FOR APPROVAL OF A SUBDIVISION IN THE HILLSIDE OVERLAY DISTRICT

The City Council has evaluated the findings to approve a subdivision in the hillside overlay district pursuant to section 6-2071, Lafayette Municipal Code as follows:

a. The design of the subdivision and the proposed development are derived from naturally contoured sites of reasonably regular configuration, do not create building sites on slopes exceeding 30 percent nor result in the need for construction of primary structures outside the areas of 30 percent or less slopes. All proposed homesites are within areas of reasonably regular configuration of less than 30 percent slope. The average slope for homesites on parcels A, B, and C are 29.4 percent, 20.2 percent, and 19.7 percent, respectively.

b. The design of the subdivision and the proposed development will result in each structure being substantially concealed, as required by LMC Section 2-2048, when viewed from lower elevations from publicly owned property (including freeways, roadways, open space, parks and trails), using the viewing elevation map as a guide to establish locations from which views are considered. The only location on the viewing evaluation map from which the project site can be seen is Happy Valley Road and the roadway is higher, not lower than the project site. Even so, most of the building sites will be screened from Happy Valley Road by existing topography and vegetation. For motorists driving west on Happy Valley Road, the home would be generally concealed from the roadway by the existing screen of trees until they reach the open area near the driveway entrance where the roof of the house would be seen. Existing trees and development along the eastern portion of Happy Valley Road block views of the future homesite for motorists within Lafayette. The homesite on Parcel B would be barely visible at an oblique angle from Happy Valley Road at the project entry driveway, a distance of about 550 feet to the southwest. Only the top portion of a house sited on Parcel C would be visible from Happy Valley Road due to a combination of distance (500+ feet), topography, and existing vegetation.

c. The design of the subdivision provides for a trail or portions of trails in conformance with the City's adopted Master Trails Map or an adopted regional trail plan, and the trail is dedicated and conditioned for improvement in accordance with adopted standards. There is an existing 10-foot trail easement on this property which is an integral part of the West Trail as identified in the

City's adopted Trails Master Plan. Pursuant to condition of approval 35, this easement will be widened to the current standard of 20 feet to allow some leeway in placing the trail itself (minimum 3 feet wide) for ease of travel within the easement.

d. The design of the subdivision and proposed development use clustering or other site planning techniques to preserve hillsides, ridgelines and open space, minimize grading and impacts on wildlife habitats to the extent feasible, and provide for the preservation of on-site open space and vegetation, terrain, scenic vistas, trail corridors, streams or water courses, or other areas of ecological significance through dedication, easement, land trust or suitable regulation. The design of the subdivision clusters three homesites on the lower slopes away from the existing 9-acre scenic easement area located on the southern hillside. Grading will be required for landslide repair in the grassland portion of the site and will result in the removal of a stand of pine trees and two dead or dying oaks tree but will avoid the more sensitive oak woodland habitat on parcels B and C and the Diablo rockrose population. Almost 50 percent of the 19.23-acre project site will remain in open space protected by an expanded scenic easement which now encompasses more of the riparian habitat on the western side of the property. As conditioned (35), the existing trail easement will be widened to 20 feet and development on Parcel C will comply with the City's creek setback regulations (mitigation measure 1). Mitigation measures 19, 20, and 21 require the preservation of on-site habitat and visual resources as do conditions of approval 23, 32, 38, 62, and 63.

e. The design of the subdivision and the proposed development are arranged so that no portion of the lot exceeding a slope of 35 percent, is proposed to be altered by grading removal or alteration of a natural feature, the removal of vegetation or other activity related to the preparation of the site for development, except fire protection, or other measures necessary for public safety, slope or geologic stabilization or the provision of a trail in conformance with the City's adopted Master Trails Map or an adopted regional trail plan or where the Planning Commission finds that an exception is necessary to provide the least intrusive or damaging access to an approved building site. This finding can be made because no portion of the development, including grading for homesites, roadways, and soil stabilization activities will occur in areas exceeding a slope of 35 percent.

f. The development, including site design and the location and massing of all structures and improvements, will preserve the open and uncluttered topography of the City, and not interfere with a ridgeline corridor or compromise the open space or scenic character of the corridor. As designed, the project clusters three homesites on the lower slopes away from the existing 9-acre scenic easement area located on the southern hillside. At a density of one dwelling unit per six acres, the project is much less dense than surrounding development. The project site is not located on a ridgeline or within a ridgeline corridor. The nearest designated ridgeline (Class III Canyon Ridge) is more than 800 feet southwest of the project site.

g. Each proposed house location and the location of each related structure is sited to minimize loss of privacy and not unduly impact, restrict or block significant views. The three homesites are located on the lower slopes of the project site and will not unduly impact, restrict or block significant views or impact the six acres covered by the scenic easement. The building sites for parcels A and C are located at least 200 feet away from the nearest adjacent residence minimizing the loss of privacy. Although no specific building site is shown for Parcel B, there is a minimum 25-foot setback from the much more densely developed Sundown Terrace subdivision adjacent to the project site. There is adequate buildable area on Parcel B so that when a specific housesite location is chosen, privacy impacts should be able to be mitigated particularly since any future house on Parcel B will be subject to the City's design and hillside development review process

pursuant to mitigation measure 25. Additionally, condition of approval 74 requires that plans for development of Parcel B include the planting of native vegetation for privacy screening between Parcel B and the abutting properties to the north on Sundown Terrace.

h. The design of streets, streetlights, storm drainage, utilities and other common improvements incorporated into the subdivision comply with adopted City standards and are designed to preserve the character of the site and surrounding area, minimize visual impact and avoid adverse impacts on surrounding properties and neighborhoods because as designed and conditioned, subdivision improvements will comply with City standards, preserve the character of the site and surrounding area, and minimize visual impacts pursuant to mitigation measures 1, 2, 3, 12, 13, 14, 19, 20, 21, 26, and 27 and conditions of approval 5, 8, 9, 22, 28, 32, 43, 47, 51, 55, 57.

i. The project entrance from Happy Valley Road and the single interior access road have been designed to follow the existing contours, avoid steep terrain, and provide for retaining walls varying in height from two to six feet. The project entrance and interior access road have been designed, conditioned, or constructed to adequately serve the three proposed dwellings and comply with Fire District standards. Implementation of mitigation measure 26 will reduce visual impacts of conventional grading and retaining walls by requiring the use of topographic berms, boulders, and natural landscape amenities. Improvements have been made to Happy Valley Road at the project entrance to ensure adequate sight distance. Proposed building sites are large enough to accommodate the two required off-street parking spaces per dwelling unit.

j. The design of the subdivision and the proposed development provide adequate emergency vehicle access, including turn-around space, to each building site and surrounding undeveloped areas, while protecting valuable trees, minimizing grading and preserving the natural hillside character of the site and vicinity because as proposed or conditioned, the design of the subdivision and proposed development will provide paved drives and turn-around space that are of a sufficient width and size to allow easy access for emergency service providers pursuant to conditions of approval 32, 33, and 34.

SECTION XI
FINDINGS FOR APPROVAL OF A SUBDIVISION

The City Council has evaluated the findings to approve a subdivision pursuant to section 66474 of the California Government Code as follows:

1. That the proposed map is consistent with applicable general and specific plans.

2. That the design or improvement of the proposed subdivision is consistent with applicable general and specific plans.

Findings 1 and 2 can be met because the proposed subdivision is located in an area designated by the General Plan as Low Density Single Family Residential which allows up to two dwelling units per acre and the subdivision is designed at one dwelling unit per six acres. The design of the subdivision and improvements will protect the character and pattern of growth by complying with Fire District safety requirements and City of Lafayette engineering standards pursuant to conditions of approval 24, 33, and 35. Development is clustered to maximize the amount of land to be retained as open space and provides for a public trail system. There are no specific plans applicable the project.

3. That the site is physically suitable for the type of development because as designed, the project is clustered on the lower elevations of the project site, preserves natural features such as oak woodland habitat and the special status Diablo rockrose, and retains 45 percent of the land in open space protected by a scenic and conservation easement. The project has either been designed or conditioned (6, 8, 24, 32, 45, 46, 59, 60, 61, 63, and 70) to insure that all necessary public and private improvements are made.

4. That the site is physically suitable for the proposed density of development because the project only proposes three dwelling units where a possible twelve dwelling units could be allowed by the R-40 and H-O-D zoning designations. Mitigation measures 19, 20, 21, 25, 26, and 27 will ensure that new homes are compatible with the neighborhood and comply with the City's adopted Residential Design Review Guidelines.

5. That the design of the subdivision or the proposed improvements are not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat because potential impacts to fish, wildlife and their habitats were analyzed in the FSEIR. The FSEIR determined that any potentially significant impacts could be mitigated to a less than significant level with implementation of mitigation measures 1, 19, 21, 21, 22, 23, and 24.

6. That the design of the subdivision or type of improvements is not likely to cause serious public health problems because this is infill development adjacent to existing residential development with supporting infrastructure and public services. Potential impacts related to unstable soils, traffic, and drainage have been evaluated in the FSEIR and will be reduced to less than significant levels through implementation of mitigation measures 2, 3, 4, 5, 10, 11, 12, 13, 14, 25, and 28. Conformance with conditions of approval, including compliance with Contra Costa Fire Protection District and Central Contra Costa Sanitary District standards will ensure that the project does not create a hazard or cause a serious public health problem.

7. That the design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision because the project will provide for an enhanced trail easement for connection to the local trail system. There are no public or service agency easements on the property that will be adversely affected by the proposed subdivision or development of three single family residences in the future.

SECTION XII
MITIGATION MONITORING AND REPORTING PROGRAM

Pursuant to Public Resources Code section 21081.6, the City Council hereby adopts the Mitigation Monitoring and Reporting Program attached to this Resolution as Exhibit A. In the event of any inconsistencies between the mitigation measures as set forth herein and the Mitigation Monitoring and Reporting Program, the Mitigation Monitoring and Reporting Program shall control.

SECTION XIII
APPROVAL OF MS504-87CCII AND CONDITIONS OF APPROVAL

Based upon the entire record before the City Council, including the above recitals and findings and all written evidence presented to the City of Lafayette and the Planning Commission at public hearings conducted on December 7, 2006, February 1, 2007, June 19, 2008, July 2, 2008, July 28, 2008, and August 11, 2008 the City Council hereby approves MS504-87CCII for three lots as shown on the site plan

prepared by Schell and Martin, Inc., dated received August 5, 2008, subject to the conditions of approval detailed in Exhibit B attached to this resolution.

SECTION XIV
CUSTODIAN OF RECORDS

The documents and materials that constitute the record of proceedings on which this resolution is based are located at the City of Lafayette, 3675 Mt. Diablo Boulevard, Lafayette, California. The custodian for these records is City Clerk, Joanne Robbins. This information is provided in compliance with Public Resources Code section 21081.6.

SECTION XV
STAFF DIRECTION

A Notice of Determination shall be filed with the County of Contra Costa within five (5) working days of final project approval.

PASSED AND ADOPTED by the City Council of the City of Lafayette at a meeting held on August 11, 2008 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

Joanne Robbins City Clerk	Mike Anderson Mayor

EXHIBIT A

MITIGATION MONITORING AND REPORTING PLAN

Environmental Impacts	Mitigation Measures	Condition of Approval Number	Resulting Level of Significance[1]	Monitoring Responsibility	Monitoring Timeframe
Planning and Policy Context					
Be inconsistent with the General Plan.	No mitigation is required.	Not applicable.	No Impact.	Not applicable.	Not applicable.
Not comply with the Zoning Ordinance.	No mitigation is required	Not applicable.	No Impact.	Not applicable.	Not applicable.
Not comply with the creek setback ordinance.	Mitigation Measure 1. The City of Lafayette shall verify compliance with the Creek Setback Ordinance through review of plot plans for individual parcels on the project site as part of the City's Design Review and Hillside Development Permit process.	71	Mitigated to Less Than Significant	Applicant submits development plans to the Engineering Services Manager for review and approval.	Submit development plans with design review or hillside development applications.
Not comply with the Hillside and Ridgeline Preservation Ordinance.	No mitigation is required.	Not applicable.	No Impact.	Not applicable.	Not applicable.
Significantly affect development of areas to the north and west (within the City of Orinda).	No mitigation is required.	Not applicable.	No Impact.	Not applicable.	Not applicable.
Traffic and Circulation					
Result in significant additional vehicle traffic outside the project boundaries.	Mitigation Measure 4: Prior to issuance of a grading or building permit, whichever occurs first, submit a construction traffic control plan to the City Engineering Services Manager for review and approval. The traffic control plan may include limitations on days and hours beyond those normally allowed for construction. The approved construction traffic control plan shall be implemented during all phases of active construction and may be modified by the City Engineering Services Manager as	58	Mitigated to Less Than Significant	Applicant submits traffic control plan to Engineering Services Manager for review and approval.	Prior to issuance of a grading or building permit, whichever occurs first.

[1] This column describes the Level of Significance resulting from the proposed project, together with the implementation of all reasonably feasible mitigation measures. For purposes of this Mitigation Monitoring and Reporting Program, "Mitigated to Less Than Significant" means that, under Public Resources Code Section 21081(a)(1) and *CEQA Guidelines* Sections 15091(a)(1) and 15092(b)(2)(A), changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the Final EIR and Addendum.

Environmental Impacts	Mitigation Measures	Condition of Approval Number	Resulting Level of Significance[1]	Monitoring Responsibility	Monitoring Timeframe
	required to ensure that impacts on area traffic and circulation are minimized to the maximum extent feasible.			Applicant ensures that traffic control plan is implemented during all phases of active construction.	During all active phases of construction.
Result in hazardous placement of roadway or roadway/driveway intersections.	Mitigation Measure 2: If not already completed, the improvements to Happy Valley Road pursuant to City of Orinda Encroachment Permit No. 06-130 shall be completed and accepted by the City of Orinda, as part of the subdivision improvements. Recommended signing and pavement markings specified in Mitigation Measure 3 shall be installed prior to acceptance of subdivision improvements or issuance of building permits, whichever occurs first.	30	Mitigated to Less Than Significant	Applicant completes required improvements and informs Engineering Services Manager.	Engineering Services Manager confirms completion of required improvements prior to acceptance of subdivision improvements or issuance of building permits, whichever occurs first.
Result in significantly hazardous emergency vehicle access.	No mitigation is required.	Not applicable.	No Impact.	Not applicable.	Not applicable.
Substantially increase hazards due to a design feature or incompatible uses.	Mitigation Measure 3: Roadway improvement plans shall include mitigation of potential hazards at this intersection. Specific recommendations, subject to review and approval by the City of Orinda, include: a. Installation of an advanced curve warning sign and supplemental 20 mph sign facing southbound drivers approaching the curve; b. Installation of a series of chevron arrow warning signs around the curve facing downhill drivers; c. Addition of reflectors to the guard rail; d. Restriping of Happy Valley Road from Sundown Terrace to the Lafayette city limits in addition to what is included in City of Orinda Encroachment Permit No. 06-130. Recommended signing and pavement markings specified above, or other measures imposed by the City of Orinda that in the City of Lafayette's judgment provide the same level of safety precautions, shall be installed prior to acceptance of subdivision improvements or issuance of a building permit, whichever occurs first.	31	Mitigated to Less Than Significant	Applicant submits roadway improvement plans to City of Orinda for review and approval and provides copy of approved plans to Planning Services Division.	Engineering Services Manager confirms completion of required improvements prior to acceptance of subdivision improvements or issuance of building permits, whichever occurs first.

Environmental Impacts	Mitigation Measures	Condition of Approval Number	Resulting Level of Significance[1]	Monitoring Responsibility	Monitoring Timeframe
Geotechnical Considerations					
Result in construction of facilities in a known landslide area or expose people or structures to potential substantial adverse effects involving landslides.	Mitigation Measure 5: The two landslides on the site shall be repaired. These slides can be repaired by conventional removal and recompaction operations. All landslide repairs and remedial grading shall implement the recommendations of the geotechnical engineer, Purcell, Rhoades & Associates, as contained in the Geotechnical Study Update, June 1, 2006 and Supplemental Investigation Report, July 26, 2007, or as amended by the City Engineering Services Manager. At the discretion of the Engineering Services Manager and his consultant(s), additional field investigation and analysis may need to be conducted to determine the final depth of remedial earthwork. The additional field investigations may include large diameter, downhole logged borings. The scope of design-level plans and location of subsurface testing and related investigations shall be coordinated with the City Engineering Services Manager. Design-level plans may include cross-sections to coordinate drain bench and subdrain elevations and flow directions. The Engineering Services Manager shall have final discretion in determining the scope and nature of any and all remedial work required. Where appropriate, as determined by the City Engineer, improvements and environmental mitigation measures required by the conditions of approval and all other applicable conditions of approval shall be incorporated into improvement plans. Prior to submittal of grading and improvement plans to the City Engineering Services Manager for review and approval, the plans shall be reviewed by the project geotechnical engineer to ensure that the recommendations and specifications have been included. Plans shall include the re-establishment, as feasible, of topographic contours as they existed prior to remedial earthwork. During landslide and soil stabilization work, the project geotechnical engineer or engineering geologist, or their representative, must be present to observe the work performed and to perform whatever testing is necessary to properly evaluate the quality of the materials and their relative compaction and to ensure compliance with approved plans.	44	Mitigated to Less Than Significant	Applicant conducts field investigation and analysis as directed by the Engineering Services Manager. Applicant prepares grading and drainage plans and submits to project geotechnical engineer for review. Once plans have been reviewed by project geotechnical engineer, applicant shall submit them to the Engineering Services Manager for review and approval. Project geotechnical engineer or engineering geologist, or their representative, must be present to observe the work performed and to perform whatever testing is necessary.	Prior to approval of improvement plans or issuance of a grading permit, whichever occurs first. During remedial earthwork and grading.

Environmental Impacts	Mitigation Measures	Condition of Approval Number	Resulting Level of Significance[1]	Monitoring Responsibility	Monitoring Timeframe
	Mitigation Measure 6: Prior to submittal of design review and hillside development permit applications for the individual homesites, design-level subsurface testing and investigations shall be conducted to determine design parameters for house foundations and improvements. The scope and location of subsurface testing and related investigations shall be coordinated with the City Engineering Services Manager. Subsequent subsurface testing and related reports shall be subject to review and approval by the City Engineering Services Manager.	69	Mitigated to Less Than Significant	Applicant conducts subsurface testing and investigations as directed by the Engineering Services Manager. Applicant submits grading and foundation plans to Engineering Services Manager for review and approval.	Prior to submittal of design review and hillside development applications.
	Mitigation Measure 7: Prior to final map approval by the City, the applicant shall submit detailed improvement and civil plans per the City Engineer's requirements. Said plan shall be prepared by a registered civil engineer. All public improvements shall be designed to City of Lafayette standards and to accepted engineering design standards. The City Engineer has all such standards on file and the Engineer's decision shall be final regarding the specific standards that shall apply. Where appropriate, as determined by the City Engineer, improvements and environmental mitigation measures required by the conditions of approval and all other applicable conditions of approval shall be incorporated into improvement plans. Design-level subsurface testing and investigations shall be conducted. The scope and location of subsurface testing and related investigations shall be coordinated with the City Engineer. Subsequent subsurface testing and related reports shall be subject to review and approval by the City Engineer. The City Engineer shall have final discretion in determining the scope and nature of any and all remedial work required.	24	Mitigated to Less Than Significant	Applicant shall submit detailed improvement and civil plans to the Engineering Services Manger for review and approval.	Prior to final map approval.
	Mitigation Measure 8: The project applicant shall conduct an investigation of the existing landslide underlying Happy Valley Road in the northeastern corner of the project site. The study should determine the extent to which the proposed project would affect landslide activity in this area, and identify any necessary repairs required by project impacts. The results of this study shall be reflected in the plans to be reviewed by the project geotechnical engineer, prior to review and approval by the City Engineering Services Manager. The Engineering Services Manager	25	Mitigated to Less Than Significant	The applicant shall conduct investigation as directed by the Engineering Services Manager.	Prior to approval of improvement plans or issuance of a grading permit, whichever occurs first.

Environmental Impacts	Mitigation Measures	Condition of Approval Number	Resulting Level of Significance[1]	Monitoring Responsibility	Monitoring Timeframe
	shall have final discretion in determining the scope and nature of any and all remedial work required.				
Result in significant changes in topography.	Implement mitigation measures 5, 26, and 27.	44, 45, 46	Mitigated to Less Than Significant	Refer to mitigation measures 5, 26, and 27.	Refer to mitigation measures 5, 26, and 27.
Result in creation of significant unstable earth conditions or expose people or structures to potential substantial adverse effects involving unstable soil or geologic unit or that would become unstable as a result of the project.	Mitigation Measure 9: The expansive soils in the area will have future shrink and swell characteristics. All house foundations and super-structures should be carefully designed by an experienced structural engineer. Particular care should be given to connections, hold-downs, and reinforcement aspects of the house design. All house foundations should consist of drilled piers which are extended well into the bedrock underlying the surficial soils. The piers should be interconnected, designed to resist lateral creep forces, and contain voids below the grade beams. Retaining walls should also be designed for relatively high creep forces. The roadway designs should also take into consideration the uplift forces from the expansive soils. It is likely that a thick layer of non-expansive imported materials would be needed to help provide stability to the roadway section. Imported material would also likely be needed under any slab-on-grade improvements, walkways, or patios in the building areas. Proper surface drainage measures around the proposed homes would also help to minimize danger from expansive soils. Such measures would include collection of gutter downspouts to discharge pipes, collection of water on paved surfaces, and collection of water on the uphill side of the homes. Prior to issuance of a building permit, the applicant shall submit plans to the City Engineering Services Manager for review and approval. The plans shall demonstrate that the foundation design for the proposed structures, access road, and retaining walls have included the recommendations contained in the Geotechnical Study Update, June 1, 2006 or as amended by the City Engineering Services Manager. Prior to submittal to the City Engineering Services Manager for review and approval, the plans shall be reviewed by the project geotechnical engineer to ensure that the recommendations and specifications have been included. Also refer to mitigation measures 6, 7, and 8.	76	Mitigated to Less Than Significant	Applicant shall submit plans to the Engineering Services Manager for review and approval.	Prior to issuance of a grading or building permit, whichever occurs first.
Result in significant erosion or siltation problems or expose people	Mitigation Measure 10: Prior to improvement plan approval or issuance of a grading permit, whichever occurs first, the applicant shall prepare and submit a detailed erosion control plan (ECP) to the city Engineering Services Manager for review and approval. The purpose of the ECP	26	Mitigated to Less Than Significant	Applicant shall submit erosion control plan to the Engineering Services	Prior to approval of improvement plans or issuance of a grading

Environmental Impacts	Mitigation Measures	Condition of Approval Number	Resulting Level of Significance[1]	Monitoring Responsibility	Monitoring Timeframe
or structures to potential substantial adverse effects involving substantial soil erosion or the loss of topsoil.	shall be to mitigate erosion and sedimentation impacts during construction. At a minimum, the ECP shall include the following: a. A proposed schedule of grading activities, monitoring, and infrastructure milestones in chronological format; b. Identification of critical areas of high erodibility potential and/or unstable slopes; c. Contour and spot elevations indicating runoff patterns before and after grading; d. Identification of erosion control measures on slopes, lots and streets. Measures shall be based on recommendations contained in the "Erosion and Sediment Control Field Manual" published by the San Francisco Regional Water Quality Control Board (RWQCB); e. Utilization of soil stabilization techniques such as short-term biodegradable erosion control blankets and hydroseeding; f. Retention of a landscape architect experienced in erosion control stabilization measures to work with the design civil engineer in establishing the proper erosion control measures in graded areas; and g. Post-construction inspection of all drainage facilities for accumulated sediment, and the cleaning of these drainage structures of debris and sediment. The ECP shall be described in the Storm Water Pollution Prevention Plan (SWPPP) prepared for the project.			Manager for review and approval.	permit, whichever occurs first.
	Mitigation Measure 11. To minimize impacts to neighboring properties and existing vegetation, the stockpile area shall be at least 25 feet from the nearest residence and be limited to the grassland area. Prior to final map approval or issuance of a grading permit, a plan showing a stockpile location meeting these criteria shall be submitted to the Planning Services Division for review and approval. No equipment, construction materials or dirt shall be placed within the dripline of any trees or within northern coastal scrub habitat. Prior to issuance of a grading or building permit, whichever occurs first, six-foot high fencing shall be installed to protect the northern coastal scrub habitat and adjacent trees. Placement of protective fencing shall be supervised in the field by the botanical consultant.	27	Mitigated to Less Than Significant	Applicant shall submit improvement and grading plans in conformance with the listed standards to the Engineering Services Manager and Planning Services Division for review and approval.	Prior to approval of improvement plans or issuance of a grading permit, whichever occurs first.

Environmental Impacts	Mitigation Measures	Condition of Approval Number	Resulting Level of Significance[1]	Monitoring Responsibility	Monitoring Timeframe
Storm Drainage and Runoff					
Significantly change drainage patterns or the rate and amount of surface water runoff.	Mitigation Measure 12: The City shall review and approve the project drainage plan to determine its adequacy to accommodate the 10-year event. Where practical, the subdrain system shall discharge into the on-site drainage system. The stormwater control plan shall meet the requirements of the City's stormwater pollution prevention plan and the Contra Costa County Clean Water Program. Prior to approval of an improvement plan or issuance of a grading permit, whichever occurs first, the applicant shall submit to the City Engineering Services Manager a final hydrology and hydraulic analysis of the existing storm drain system to its discharge to Happy Valley Creek. The final hydrology and hydraulic analysis shall demonstrate to the satisfaction of the City Engineering Services Manager that the project meets the following performance criteria including but not limited to: a. Post-project peak run-off has been detained/retained onsite, and b. That detention systems have been constructed to handle adequately the 10-year storm runoff from buildout of the site. If the systems are determined to be inadequately sized, the systems shall be expanded to provide for adequate detention and to maintain peak discharge at or below the discharge/runoff conditions documented in the Final EIR.	39	Mitigated to Less Than Significant	Applicant submits hydrology and hydraulic analysis to Engineering Services Manager for review and approval. Upon approval of hydrology and hydraulic analysis by Engineering Services Manager, applicant prepares drainage, stormwater control, and improvement plans for review and approval by the Engineering Services Manager.	Prior to approval of improvement plans or issuance of a grading permit, whichever occurs first.
	Mitigation Measure 13: The drainage plan for Parcel C shall direct runoff to Happy Valley Creek and away from existing residences to the northeast.	42	Mitigated to Less Than Significant	Applicant submits drainage plans to Engineering Services Manager for review and approval.	Prior to approval of improvement plans or issuance of a grading permit, whichever occurs first.
	Mitigation Measure 14: Maximum use of on-site stormwater detention should be incorporated into the project where possible through appropriate design of drainage facilities.	43	Mitigated to Less Than Significant	Applicant submits drainage plans to Engineering Services Manager for review and approval.	Prior to approval of improvement plans or issuance of a grading permit, whichever occurs first.
	Mitigation Measure 15: Prior to issuance of a building permit for home construction, the applicant shall pay the required Drainage Study Fee pursuant to Chapter 8-17, Lafayette Municipal Code.	10	Mitigated to Less Than Significant	Applicant pays required drainage study fee.	Prior to issuance of building permit.

Environmental Impacts	Mitigation Measures	Condition of Approval Number	Resulting Level of Significance[1]	Monitoring Responsibility	Monitoring Timeframe
Violate any water quality standards or waste discharge requirements.	Mitigation Measure 16: The applicant's drainage plan shall include the use of temporary facilities to divert or control runoff during construction to avoid the possibility of uncontrolled erosion during or following construction. Other long-term and permanent erosion control methods include landscaping and the selective use of drainage swales and subdrains. All such erosion control measures shall be described in the Storm Water Pollution Prevention Plan prepared for the project. Hydroseeding for remedial earthwork and erosion control shall use a native grassland mix appropriate for this hillside location.	37	Mitigated to Less Than Significant	Applicant submits drainage plans to Engineering Services Manager for review and approval.	Prior to approval of improvement plans or issuance of a grading permit, whichever occurs first.
	Mitigation Measure 17: Prior to issuance of grading or building permits, whichever occurs first, the applicant shall comply with NPDES General Construction Activities Storm Water Permit Requirements established by the CWA including preparation of a SWPPP. The SWPPP shall identify specific types and sources of storm water pollutants, determine the location and nature of potential impacts, and specify appropriate control measures to eliminate any potentially significant impacts to receiving water quality from storm water runoff. In addition to complying with the standards established by the CWA for preparation of a SWPPP, the SWPPP shall also comply with the directions for preparing a SWPPP contained in the latest edition of the Guidelines for Construction Projects published by the California Regional Water Quality Board San Francisco Region.	64	Mitigated to Less Than Significant	Applicant shall submit SWPPP to the State Water Resources Control Board for review and approval.	Prior to issuance of a grading or building permit, whichever occurs first.
	Mitigation Measure 18. Prior to issuance of grading or building permits, whichever occurs first, the project sponsor shall submit to the City Engineering Services Manager a copy of the Notice of Intent (NOI) and SWPPP sent to the State Water Resources Control Board.	65	Mitigated to Less Than Significant	Applicant shall submit to the Engineering Services Manager a copy of the NOI.	Prior to issuance of a grading or building permit, whichever occurs first.
Substantially alter the existing drainage pattern of the site or area in a manner which would result in substantial erosion or siltation on- or off-site.	Implement mitigation measures 16, 17, and 18.	37, 64, 65	Mitigated to Less Than Significant	Refer to mitigation measures 16, 17, and 18.	Refer to mitigation measures 16, 17, and 18.
Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or	No mitigation is required.	Not applicable.	No Impact.	Not applicable.	Not applicable.

Environmental Impacts	Mitigation Measures	Condition of Approval Number	Resulting Level of Significance[1]	Monitoring Responsibility	Monitoring Timeframe
provide substantial additional sources of polluted runoff.					
Biologic and Habitat Considerations					
Result in a significant change in the diversity or number of species	Mitigation Measure 23: A preconstruction survey for the California red-legged frog and the Alameda whipsnake shall be conducted of the areas of the project site that would be affected prior to construction. Upon completion of the preconstruction survey, survey results shall be reported to the Planning Services Division. If evidence of these or other special status species is found, the California Department of Fish and Game shall be consulted.	60	Mitigated to Less Than Significant	Applicant shall conduct preconstruction survey and report results to the Planning Services Division.	Prior to start of grading activities.
	Mitigation Measure 24: A preconstruction survey shall be conducted for nesting raptors within 250 feet of any construction area within 21 days of construction. A buffer of a radius of at least 250 feet shall be established between any nesting raptor and construction activity. The project sponsor shall submit plans to the Planning Services Division showing the buffer area and protection measures such as fencing or other measure(s) approved by the City. This buffer shall be maintained until the chicks fledge, unless a biologist experienced with raptor nesting behavior determines that the buffer can be reduced without stressing the nesting raptor.	61	Mitigated to Less Than Significant	Applicant shall conduct preconstruction survey and report results to the Planning Services Division.	Prior to start of grading activities.
Result in deterioration to existing fish or wildlife habitat.	Mitigation Measure 19. Any future development on Parcel B shall be planned for the northeast corner to avoid the more valuable wildlife habitats (oak woodland, coastal scrub, and riparian) to the west and southwest.	72	Mitigated to Less Than Significant	Applicant shall submit design review and hillside development applications to the Planning Services Division.	Prior to issuance of a grading or building permit, whichever occurs first.
	Mitigation Measure 20: Disturbance of grassland habitat during access road construction shall be confined to the area east of the proposed road to minimize any damage to more valuable habitats to the west.	59	Mitigated to Less Than Significant	Applicant shall submit grading, drainage, and improvement plans to the Engineering Services Manager for review and approval.	Prior to issuance of a grading permit.
	Mitigation Measure 21: Construction and landscaping on Parcel C shall be carried out with minimum disturbance to oak woodland habitat. Placement of the driveway and house site shall avoid removal of oak	73	Mitigated to Less Than Significant	Applicant shall submit design review and hillside development applications	Prior to issuance of a grading or building permit, whichever occurs first.

Environmental Impacts	Mitigation Measures	Condition of Approval Number	Resulting Level of Significance[1]	Monitoring Responsibility	Monitoring Timeframe
	woodland, and any lost habitat shall be replaced on an acre-per-acre basis on the parcel and in conformance with Chapter 6-17, Tree Protection, Lafayette Municipal Code. Landscape materials shall consist of only native, drought-tolerant species.			to the Planning Services Division.	
	Mitigation Measure 22: On-site drainage plans shall be reviewed by the California Department of Fish and Game to determine if a Stream Alteration Agreement is required.	41	Mitigated to Less Than Significant	Applicant shall submit grading, drainage, and improvement plans to the Engineering Services Manager for review and approval.	Prior to issuance of a grading permit.
Visual considerations					
Significantly impact a scenic route or State highway.	No mitigation is required.	Not applicable.	No Impact.	Not applicable.	Not applicable.
Result in a significant obstruction of any scenic vista or view open to the public or result in significant long-term degradation of natural scenic qualities.	Mitigation Measure 25: Plans for development of individual lots on the site shall be reviewed pursuant to the City's Design Review process to ensure that visual impacts are minimized. Possible measures to reduce visual impacts would include height and bulk restrictions and use of earth-tone colors in the design of the new houses, and screening through use of drought-tolerant and/or native landscaping. The applicant would be required to execute the City's standard landscape maintenance agreement prior to issuance of a permit for building construction to ensure that existing and new vegetation and landscaping is maintained.	70	Mitigated to Less Than Significant	Applicant shall submit design review and hillside development applications to the Planning Services Division.	Prior to issuance of a grading or building permit, whichever occurs first.
	Mitigation Measure 26: To reduce the visual impacts of conventional grading and retaining walls, subdivision improvement plans shall include use of topographic berms, boulders, and natural landscape amenities.	45	Mitigated to Less Than Significant	Applicant submits grading and improvement plans to Engineering Services Manager and Planning Services Division for review and approval.	Prior to approval of improvement plans or issuance of a grading permit, whichever occurs first.
	Mitigation Measure 27: Prior to approval of the final map or issuance of a grading permit, whichever occurs first, the applicant shall submit a re-vegetation plan for the areas subject to remedial earthwork and for the stockpile area. The re-vegetation plan shall include native plant species to replace and enhance the amount and type of vegetation removed or impacted.	46	Mitigated to Less Than Significant	Applicant submits grading and improvement plans to Engineering Services Manager and Planning Services Division for review and approval.	Prior to approval of improvement plans or issuance of a grading permit, whichever occurs first.

Environmental Impacts	Mitigation Measures	Condition of Approval Number	Resulting Level of Significance[1]	Monitoring Responsibility	Monitoring Timeframe
Cultural Considerations					
Remove or damage an historical monument or structure.	No mitigation is required.	Not applicable.	No Impact.	Not applicable.	Not applicable.
Air Quality					
Violate any air quality standard or contribute substantially to an existing or projected air quality violation.	Mitigation Measure 28: To ensure that potential construction impacts are less than significant, the following mitigation measures shall be implemented: a. Water all active construction areas at least twice daily. b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard. c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites. d. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites. e. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets. Additionally, in the event that the disturbance of greater than four acres is required, the following mitigation measures shall also be implemented: a. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more). b. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.) c. Limit traffic speeds on unpaved roads to 15 mph. d. Install sandbags or other erosion control measures to prevent silt runoff to public roadways. e. Replant vegetation in disturbed areas as quickly as possible.	11	Mitigated to Less Than Significant	Applicant shall submit grading and improvement plans with these performance standards listed to the Engineering Services Manager for review and approval. Applicant shall monitor project site for compliance with these performance standards.	Prior to approval of improvement plans or issuance of a grading permit, whichever occurs first. During all phases of active construction.
Noise					
Exposure of persons to or generation of noise levels in excess of standards established in the local	No mitigation is required.	Not applicable.	No Impact.	Not applicable.	Not applicable.

Environmental Impacts	Mitigation Measures	Condition of Approval Number	Resulting Level of Significance[1]	Monitoring Responsibility	Monitoring Timeframe
general plan or noise ordinance, or applicable standards of other agencies.					
Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels.	No mitigation is required.	Not applicable.	No Impact.	Not applicable.	Not applicable.
A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.	No mitigation is required.	Not applicable.	No Impact.	Not applicable.	Not applicable.
A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.	No mitigation is required.	Not applicable.	No Impact.	Not applicable.	Not applicable.

EXHIBIT B

CONDITIONS OF APPROVAL FOR MS504-87CCII

4123 HAPPY VALLEY ROAD; APN 247-010-019 and 020

Project specific conditions of approval are shaded.

	GENERAL AND ONGOING CONDITIONS	FOR STAFF USE ONLY
1.	In these conditions of approval, "applicant" is Robin and Kris Leamy, or their successors and assigns.	General or ongoing condition.
2.	This parcel map shall expire twenty-four months after the date of approval unless a completed final map in substantial compliance with the approved parcel map, dated received May 6, 2008, as may be amended by these conditions, is filed with the City Engineering Services Manager. Upon application by the subdivider, filed before the expiration of the parcel map, the Planning Commission may extend this expiration date for a period or periods totaling not more than twenty-four months after the original expiration date.	General or ongoing condition.
3.	Pursuant to the Mutual Compromise Settlement and Release Agreement, the applicant reserves the right to file an application seeking further subdivision of Parcel B. The City retains all of the rights and authority granted to or vested in a public agency by law with respect to the review, approval, approval with conditions or disapproval of the subdivision application.	General or ongoing condition.
4.	The applicant is responsible for all costs associated with implementing the Mitigation Monitoring and Reporting Program.	General or ongoing condition.
5.	All on-site utility distribution services shall be installed underground. Conduit for cable television shall also be installed underground. All undergrounding shall occur at no expense to the City.	General or ongoing condition.
6.	Any cost of relocating utilities due to subdivision improvements shall be the responsibility of the applicant.	General or ongoing condition.
7.	The construction area shall be reduced to as small an area as possible while allowing for efficient construction of the proposed project.	General or ongoing condition.
8.	Designs for roadways and homesites shall minimize impervious surfaces and utilize stormwater best management practices to the maximum extent practicable. Sources for residential site planning and design guidance for storm water quality protection include Start at the Source by Bay Area Stormwater Management Agencies Association, the California Stormwater Best Management Practice handbooks, and City of Lafayette"Stormwater Quality Control Guidelines."	General or ongoing condition.
9.	All stormwater management facilities, including but not limited to, treatment BMPs, permanent source control BMPs, detention basins, and drop structures, shall be installed and shall be inspected and certified by the project design engineer.	General or ongoing condition.

10.	Mitigation Measure 15: Prior to issuance of a building permit for home construction, the applicant shall pay the required Drainage Study Fee pursuant to Chapter 8-17, Lafayette Municipal Code. Development of this subdivision and any new residence and applicable accessory structures constructed in the subdivision shall be subject to Walkway Fees and Chapter 6-16 (Parkland Dedication Fees).	Satisfied: ____ Date: _____ Staff: _____
11.	Mitigation Measure 28: To ensure that potential construction impacts are less than significant, the following mitigation measures shall be implemented: a. Water all active construction areas at least twice daily. b. Cover all trucks hauling soil, sand, and other loose materials or require all trucks to maintain at least two feet of freeboard. c. Pave, apply water three times daily, or apply (non-toxic) soil stabilizers on all unpaved access roads, parking areas and staging areas at construction sites. d. Sweep daily (with water sweepers) all paved access roads, parking areas and staging areas at construction sites. e. Sweep streets daily (with water sweepers) if visible soil material is carried onto adjacent public streets. Additionally, in the event that the disturbance of greater than four acres is required, the following mitigation measures shall also be implemented: a. Hydroseed or apply (non-toxic) soil stabilizers to inactive construction areas (previously graded areas inactive for ten days or more). b. Enclose, cover, water twice daily or apply (non-toxic) soil binders to exposed stockpiles (dirt, sand, etc.) c. Limit traffic speeds on unpaved roads to 15 mph. d. Install sandbags or other erosion control measures to prevent silt runoff to public roadways. e. Replant vegetation in disturbed areas as quickly as possible.	General or ongoing condition.
12.	Prior to issuance of grading and/or building permits, the applicable conditions of approval set forth in this Exhibit shall be duplicated in the construction drawing plan sets for the benefit of the contractor(s) and inspector(s). All sheets in the construction drawings shall be the same size (e.g. 24" x 36").	General or ongoing condition.
13.	Prior to start of grading or construction, whichever occurs first, a sign stating the allowed days and hours for construction shall be posted in a conspicuous place on the property where it can be viewed by all contractors, subcontractors, and the general public. The sign shall be no smaller than 2 square feet or larger than 4 square feet with lettering between 3 inches and 5 inches in height. The construction sign shall state, "Hours of construction, Monday - Saturday, 8:00 A.M. to 6:00 P.M. No construction shall occur on Sundays or federal holidays." Violation of this condition may result in issuance of a Stop Work Order or administrative citations.	General or ongoing condition.

14.	The applicant shall obtain an encroachment permit from the City of Orinda for any improvements within the right-of-way of Happy Valley Road.	General or ongoing condition.
15.	Equipment and material staging and storage areas, equipment maintenance, portable toilets, fueling operations, and similar activities shall be located on the subject property within disturbed areas and away from sensitive areas such as drainage swales, creeks, trees, tree groves, and existing residences. Temporary storage of construction boxes or construction materials must be kept out of any private easement or public right-of-way to permit emergency vehicle access during the construction project. Violation of this condition may result in issuance of a Stop Work Order or administrative citations.	General or ongoing condition.
16.	Temporary trailers are to be used only during the construction period and shall be removed within ten (10) days of final inspection approval.	General or ongoing condition.
17.	The applicant shall be responsible for ensuring that tree protection measures remain intact throughout the construction process. Staff will conduct site inspections throughout the construction process without prior notice. If the protection measures are damaged or otherwise removed, the project shall be subject to a stop work order until such time as corrective measures have been taken to the satisfaction of Planning Services Division staff.	General or ongoing condition.
18.	The applicant shall be responsible for the prompt clean up of any materials spilled or dropped on any abutting streets during construction. The City Engineer may require the owner to post a cash deposit prior to the start of construction to cause timely clean up of streets.	General or ongoing condition.
19.	If the Planning Services Division, either independently or as a result of complaints from the public, becomes aware that these conditions of approval are being violated, the Planning Services Division may pursue administrative remedies pursuant to Chapter 1-9 of the Lafayette Municipal Code.	General or ongoing condition.
20.	The applicant shall defend, indemnify and hold harmless the City of Lafayette, (its agents, officers and employees) from an action, or proceeding against the City that attacks or seeks to, set aside this approval, if the action or proceeding is brought within the applicable time period of Government Code Section 65009. If the City is aware of such action or proceeding it shall promptly notify the applicant and cooperate fully in the defense. If the City fails to promptly notify the applicant, or fails to cooperate fully in the defense, the applicant is not thereafter responsible to defend, indemnify or hold the City harmless. This condition does not prohibit the City from participating in the defense of the action, or proceeding, if both of the following occur: (1) the City bears its own attorney's fees and costs; and (2) the City defends the action in good faith. In this condition "applicant" means each person who qualifies as an applicant as that term is defined in L.M.C. sections 6-203.[1]	General or ongoing condition.

[1] An applicant is a person who has either (a) a freehold interest in the subject land, (b) a possessory interest in that land that entitles him to exclusive possession, or (c) a contractual interest which is specifically enforceable and thereby may become a freehold or exclusive possessory interest. Applicant also includes an authorized agent.

21.	The conditions herein contained shall run with the property and shall be binding on the property owner(s), and all heirs, executors, administrators, and successors in interest to the real property that is the subject of this approval.	General or ongoing condition.
	PRIOR TO FINAL MAP APPROVAL	**FOR STAFF USE ONLY**
22.	The parcel map shall be revised to show the 10-foot strip of land adjoining and lying southerly of Happy Valley Road as dedicated to the City of Lafayette as shown on the map filed September 25, 1975 in Book 40 of Parcel Maps of Official Records, at Page 21.	Satisfied: ____ Date: _____ Staff: _____
23.	The existing scenic easement document shall be revised, or replaced as applicable, to reflect the expanded easement.	Satisfied: ____ Date: _____ Staff: _____
24.	Mitigation Measure 7: Prior to final map approval by the City, the applicant shall submit detailed improvement and civil plans per the City Engineer's requirements. Said plan shall be prepared by a registered civil engineer. All public improvements shall be designed to City of Lafayette standards and to accepted engineering design standards. The City Engineer has all such standards on file and the Engineer's decision shall be final regarding the specific standards that shall apply. Where appropriate, as determined by the City Engineer, improvements and environmental mitigation measures required by the conditions of approval and all other applicable conditions of approval shall be incorporated into improvement plans. Design-level subsurface testing and investigations shall be conducted. The scope and location of subsurface testing and related investigations shall be coordinated with the City Engineer. Subsequent subsurface testing and related reports shall be subject to review and approval by the City Engineer. The City Engineer shall have final discretion in determining the scope and nature of any and all remedial work required.	Satisfied: ____ Date: _____ Staff: _____
25.	Mitigation Measure 8: The project applicant shall conduct an investigation of the existing landslide underlying Happy Valley Road in the northeastern corner of the project site. The study should determine the extent to which the proposed project would affect landslide activity in this area, and identify any necessary repairs required by project impacts. The results of this study shall be reflected in the plans to be reviewed by the project geotechnical engineer, prior to review and approval by the City Engineering Services Manager. The Engineering Services Manager shall have final discretion in determining the scope and nature of any and all remedial work required.	Satisfied: ____ Date: _____ Staff: _____
26.	Mitigation Measure 10: Prior to Improvement Plan approval or issuance of a grading permit, whichever occurs first, the applicant shall prepare and submit a detailed erosion control plan (ECP) to the city Engineering Services Manager for review and approval. The purpose of the ECP shall be to mitigate erosion and sedimentation impacts during construction. At a minimum, the ECP shall include the following: a. A proposed schedule of grading activities, monitoring, and infrastructure milestones in chronological format;	Satisfied: ____ Date: _____ Staff: _____

	b. Identification of critical areas of high erodibility potential and/or unstable slopes; c. Contour and spot elevations indicating runoff patterns before and after grading; d. Identification of erosion control measures on slopes, lots and streets. Measures shall be based on recommendations contained in the "Erosion and Sediment Control Field Manual" published by the San Francisco Regional Water Quality Control Board (RWQCB); e. Utilization of soil stabilization techniques such as short-term biodegradable erosion control blankets and hydroseeding; f. Retention of a landscape architect experienced in erosion control stabilization measures to work with the design civil engineer in establishing the proper erosion control measures in graded areas; and g. Post-construction inspection of all drainage facilities for accumulated sediment, and the cleaning of these drainage structures of debris and sediment. The ECP shall be described in the Storm Water Pollution Prevention Plan (SWPPP) prepared for the project.	
27.	Mitigation Measure 11. To minimize impacts to neighboring properties and existing vegetation, the stockpile area shall be at least 25 feet from the nearest residence and be limited to the grassland area. Prior to final map approval or issuance of a grading permit, a plan showing a stockpile location meeting these criteria shall be submitted to the Planning Services Division for review and approval. No equipment, construction materials or dirt shall be placed within the dripline of any trees or within northern coastal scrub habitat. Prior to issuance of a grading or building permit, whichever occurs first, six-foot high fencing shall be installed to protect the northern coastal scrub habitat and adjacent trees. Placement of protective fencing shall be supervised in the field by the botanical consultant.	Satisfied: ____ Date: _____ Staff: _____
28.	Concurrent with submittal of grading and/or improvement plans, the applicant shall submit a draft City of Lafayette Stormwater Management Facilities Operations and Maintenance Agreement and Right of Entry to the Engineering Services Division for review and approval. A sample Agreement is available from the Planning Services Division or from www.lovelafayette.org > City Departments > Public Works > Appendix A – Stormwater Facilities Operations and Maintenance Agreement.	Satisfied: ____ Date: _____ Staff: _____
29.	Prior to Final Map approval, the applicant shall provide proof to the City that condition of approval #4 as shown on the conditions of approval for Subdivision 6462 dedicating development rights over Parcel A of Subdivision 6462 to Contra Costa County in the form of a scenic easement has been rescinded or otherwise modified allowing development of Parcel A for access to the subject property.	Satisfied: ____ Date: _____ Staff: _____

30.	Mitigation Measure 2: Subject to approval by the City of Orinda, recommended signing and pavement markings specified in Mitigation Measure 3 shall be included in subdivision improvement plans.	Satisfied: ____ Date: _____ Staff: _____
31.	Mitigation Measure 3: Roadway improvement plans shall include mitigation of potential hazards at this intersection. Specific recommendations, subject to review and approval by the City of Orinda, include: a. Installation of an advanced curve warning sign and supplemental 20 mph sign facing southbound drivers approaching the curve; b. Installation of a series of chevron arrow warning signs around the curve facing downhill drivers; c. Addition of reflectors to the guard rail; d. Restriping of Happy Valley Road from Sundown Terrace to the Lafayette city limits in addition to what is included in City of Orinda Encroachment Permit No. 06-130. Recommended signing and pavement markings specified above, or other measures imposed by the City of Orinda that in the City of Lafayette's judgment provide the same level of safety precautions, shall be included in subdivision improvement plans.	Satisfied: ____ Date: _____ Staff: _____
32.	In order to reduce grading and minimize impacts on aesthetics and water quality, the interior access road shall be paved at the minimum width required by the Contra Costa Fire Protection District.	Satisfied: ____ Date: _____ Staff: _____
33.	Prior to Final Map approval or issuance of grading permits, whichever occurs first, the applicant shall incorporate the following design specifications into project plans unless otherwise specified by the Fire District: a. Provide access roadways with all-weather driving surfaces of not less than 20 feet unobstructed width, and not jess than 13 feet 6 inches of vertical clearance, to within 150 feet of travel distance to all portions of the exterior walls of every building. Access roads shall not exceed 16% grade, shall have a minimum outside turning radius of 45 feet, and must be capable of supporting the imposed loads of fire apparatus, i.e., 37 tons. (902.2) CFC b. The project as proposed shall require the installation of an approved Fire District turnaround. Dead-end emergency apparatus access roadways, driveways, and cul-de-sacs in excess of 150 feet in length shall be provided with approved provisions for the turning around of fire apparatus. (902.2.2.4, UFC) District turnarounds shall not exceed 8% grade, shall have a minimum outside turning radius of 45 feet, an inside turning radius of 25 feet, and must be capable of supporting the imposed loads of fire apparatus, i.e., 37 tons. Fire District turnarounds shall not be obstructed in any manner without Fire District approval. (902.2.2.4) CFC c. Provision of an adequate and reliable water supply for fire protection as set forth in the California Fire Code. (903.1) CFC	Satisfied: ____ Date: _____ Staff: _____

	d. Provision of two hydrants of the East Bay type. Hydrant locations shall be determined by the Fire District. (903.4.4) CFC e. Access gates for Fire District apparatus shall be a minimum of 20-fet wide. Electrically operated gates shall be equipped with a Knox Company key-operated switch. Access gates shall swing inward and be setback from public right-of-way by a minimum of 30 feet. Manually operated gates shall be equipped with a non-casehardened lock or approved Fire District lock. Contact the Fire District for information on ordering the key-operated switch. (902.2.4) CFC	
34.	The applicant shall submit three copies of site improvement plans indicating turnaround and fire apparatus access roadways for review and approval prior to construction. Indicate any water mains to be installed in any of the newly aligned roadways. (902.2.2.1) CFC	Satisfied: ____ Date: _____ Staff: _____
35.	Revise the 10-foot trail easement to provide minimum 20-foot trail easement in a location acceptable to the City. The trail easement shall be dedicated to the City of Lafayette for public use prior to or concurrent with the recording of the Final Map. Show trail dedication on certificate sheet of the Final Map. If the trail is within the access road easement, signs shall be placed on the road stating that the road is a public trail. The applicant shall install trail signage as may be approved by the Parks, Trails, and Recreation Commission.	Satisfied: ____ Date: _____ Staff: _____
36.	The trail easement shall be provided with permanent survey monuments set by a licensed surveyor or civil engineer prior to filing the final map/parcel map. Monuments shall be supplemented by above ground markers such as redwood posts. The location and type of markers and monuments shall be approved by the City Engineer and Parks, Trails, and Recreation Commission and shall be placed at sufficient intervals to delineate clearly the location of the easement in the field.	Satisfied: ____ Date: _____ Staff: _____
37.	Mitigation Measure 16: The applicant's drainage plan shall include the use of temporary facilities to divert or control runoff during construction to avoid the possibility of uncontrolled erosion during or following construction. Other long-term and permanent erosion control methods include landscaping and the selective use of drainage swales and subdrains. All such erosion control measures shall be described in the Storm Water Pollution Prevention Plan prepared for the project. Hydroseeding for remedial earthwork and erosion control shall use a native grassland mix appropriate for this hillside location.	Satisfied: ____ Date: _____ Staff: _____
38.	Hydroseeding for erosion control shall utilize the following performance standards: a. Hydroseeding on the regraded slopes shall include only native species; b. Hydroseeding shall take place in a time period that will ensure germination, or as directed by the Engineering Services Manager; and c. As dictated by weather and field conditions at the time of hydroseeding, the Engineering Services Manager may require the installation of erosion control blankets or matting to secure the hydroseed.	Satisfied: ____ Date: _____ Staff: _____

39.	Mitigation Measure 12: The City shall review and approve the project drainage plan to determine its adequacy to accommodate the 10-year event. Where practical, the subdrain system shall discharge into the on-site drainage system. The stormwater control plan shall meet the requirements of the City's stormwater pollution prevention plan and the Contra Costa County Clean Water Program. Prior to approval of an improvement plan or issuance of a grading permit, whichever occurs first, the applicant shall submit to the City Engineering Services Manager a final hydrology and hydraulic analysis of the existing storm drain system to its discharge to Happy Valley Creek. The final hydrology and hydraulic analysis shall demonstrate to the satisfaction of the City Engineering Services Manager that the project meets the following performance criteria including but not limited to: a. Post-project peak run-off has been detained/retained onsite, and b. That detention systems have been constructed to handle adequately the 10-year storm runoff from buildout of the site. If the systems are determined to be inadequately sized, the systems shall be expanded to provide for adequate detention and to maintain peak discharge at or below the discharge/runoff conditions documented in the Final EIR.	Satisfied: ____ Date: _____ Staff: _____
40.	Prior to approval of an improvement plan or issuance of a grading permit, whichever occurs first, the applicant shall submit to the City Engineer a final hydrology and hydraulic report analyzing the project drainage from Parcel B to its discharge to the creek north of Parcel B (unnamed tributary to Lauterwasser Creek). Any impacts or deficiencies shall be mitigated as part of the subdivision improvements, including but not limited to the detention basin proposed to mitigate the existing drainage condition and capture runoff from the proposed development. The final hydrology and hydraulic analysis shall demonstrate, to the satisfaction of the City Engineering Services Manager that the project meets the following performance criteria including but not limited to: a. Post-project run-off shall be maintained at or below the discharge/runoff conditions documented in the Final EIR, b. Post-project peak run-off has been detained/retained onsite, c. That detention systems have been constructed to handle adequately the 10-year storm runoff from buildout of the site. If the systems are determined to be inadequately sized, the systems shall be expanded to provide for adequate detention and to maintain peak discharge at, below or equal to existing discharge/runoff conditions, d. Re-vegetation of drainage channel on Parcel B, e. Prior to review by the Engineering Services Manager, drainage plans shall be reviewed by the project geotechnical engineer. The drainage plan shall indicate the location and design of all storm drainage facilities, including subsurface drains, detention basins, drop structures, and maintenance access road to detention basins. Detention basins shall be constructed in conjunction with grading for the development. Private drainage easements shall be shown on the map as needed. Encumbrances shall be shown	Satisfied: ____ Date: _____ Staff: _____

	on the drainage map including but not limited to maintenance access roads to detention basins. The re-vegetation plan shall incorporate riparian species to the maximum extent practicable.	
41.	Mitigation Measure 22: On-site drainage plans shall be reviewed by the California Department of Fish and Game to determine if a Stream Alteration Agreement is required.	Satisfied: ____ Date: _____ Staff: _____
42.	Mitigation Measure 13: The drainage plan for Parcel C shall direct runoff to Happy Valley Creek and away from existing residences to the northeast.	Satisfied: ____ Date: _____ Staff: _____
43.	Mitigation Measure 14: Maximum use of on-site stormwater detention should be incorporated into the project where possible through appropriate design of drainage facilities.	Satisfied: ____ Date: _____ Staff: _____
44.	Mitigation Measure 5: The two landslides on the site shall be repaired. These slides can be repaired by conventional removal and recompaction operations. All landslide repairs and remedial grading shall implement the recommendations of the geotechnical engineer, Purcell, Rhoades & Associates, as contained in the Geotechnical Study Update, June 1, 2006 and Supplemental Investigation Report, July 26, 2007, or as amended by the City Engineering Services Manager. At the discretion of the Engineering Services Manager and his consultant(s), additional field investigation and analysis may need to be conducted to determine the final depth of remedial earthwork. The additional field investigations may include large diameter, downhole logged borings. The scope of design-level plans and location of subsurface testing and related investigations shall be coordinated with the City Engineering Services Manager. Design-level plans may include cross-sections to coordinate drain bench and subdrain elevations and flow directions. The Engineering Services Manager shall have final discretion in determining the scope and nature of any and all remedial work required. Where appropriate, as determined by the City Engineer, improvements and environmental mitigation measures required by the conditions of approval and all other applicable conditions of approval shall be incorporated into improvement plans. Prior to submittal of grading and improvement plans to the City Engineering Services Manager for review and approval, the plans shall be reviewed by the project geotechnical engineer to ensure that the recommendations and specifications have been included. Plans shall include the re-establishment, as feasible, of topographic contours as they existed prior to remedial earthwork. During landslide and soil stabilization work, the project geotechnical engineer or engineering geologist, or their representative, must be present to observe the work performed and to perform whatever testing is necessary to properly evaluate the quality of the materials and their relative compaction and to ensure compliance with approved plans.	Satisfied: ____ Date: _____ Staff: _____

45.	Mitigation Measure 26: To reduce the visual impacts of conventional grading and retaining walls, subdivision improvement plans shall include use of topographic berms, boulders, and natural landscape amenities.	Satisfied: ____ Date: _____ Staff: _____
46.	Mitigation Measure 27: Prior to approval of the final map or issuance of a grading permit, whichever occurs first, the applicant shall submit a re-vegetation plan for the areas subject to remedial earthwork and for the stockpile area. The re-vegetation plan shall include native plant species to replace and enhance the amount and type of vegetation removed or impacted.	Satisfied: ____ Date: _____ Staff: _____
47.	This subdivision shall be subject to recorded Covenants, Conditions and Restrictions (CC&Rs) or other agreement satisfactory to the City Attorney. The CC&Rs shall provide for the maintenance of private roads, private drainage and stormwater control systems, and of any feature, landscaping, or other improvement to be commonly maintained and shall include a restriction prohibiting vehicular access across this property for the purpose of giving other adjacent properties access to Happy Valley Road. The CC&Rs shall acknowledge the existence of the trail easement and contain provisions stating that the described easement shall remain accessible to the public and homeowners may not place any type of signage or barrier that would discourage public use of the trail. The trail easement is not be encroached upon by fences, vegetation, earth mounds, drainage ditches, sheds, animal houses or structures of any kind. There shall be no dumping of rubbish, building materials, or garden clippings on the trail easement.	Satisfied: ____ Date: _____ Staff: _____
48.	This subdivision shall conform to the provisions of the County Subdivision Ordinance (Title 9) as adopted by the City of Lafayette.	Satisfied: ____ Date: _____ Staff: _____
49.	All applicable requirements of any law or agency of the State, City of Lafayette and any other governmental entity at the time of the recording of the final map shall be met. The duty of inquiry as to such requirements shall be upon the applicant.	General or ongoing condition.
50.	The final/parcel map shall be recorded before sale of any approved lot.	Satisfied: ____ Date: _____ Staff: _____
51.	Sanitary sewers shall be gravity flow unless it is determined by the Central Contra Costa Sanitary District that gravity flow is infeasible, in which case pumping may be allowed. No septic or leachfield systems shall be allowed.	Satisfied: ____ Date: _____ Staff: _____
52.	The placement of mailboxes within the right-of-way shall conform to current standards of the U.S. Postal Service and the City of Lafayette Engineering Services Division. The subdivider is advised to contact the postal service and find satisfactory arrangements for mail delivery.	Satisfied: ____ Date: _____ Staff: _____

53.	The applicant shall execute a subdivision agreement with the City prior to recording the Final Map agreeing to install all required improvements within one year of the map being recorded. The agreement shall be secured by a bond or other security acceptable to the City.	Satisfied: ____ Date: _____ Staff: _____
54.	Prior to filing the Final Map, applicant shall provide City with proof that an agreement has been executed with each utility company and that all appropriate fees and/or bonds have been paid as required by the agreement.	Satisfied: ____ Date: _____ Staff: _____
55.	All streets in the subdivision shall be private. A roadway and drainage maintenance agreement shall be recorded against each lot in the subdivision, obligating each lot for a proportionate share of the maintenance of the street and any joint private facilities, including drainage, with consent of a majority of the property owners.	Satisfied: ____ Date: _____ Staff: _____
56.	Prior to filing the Parcel/Final Map, applicant shall provide City with (a) a reproducible mylar copy, (b) a scanned electronic file in TIFF format, and (c) an electronic file in AutoCAD or Microstation compatible format, of the approved improvement plans. Within 60 days after recording the Final Map, the applicant shall provide the City with (a) a reproducible mylar copy and (b) a scanned electronic file in TIFF format, of the recorded Final Map. Prior to release of security for the subdivision improvements, provide (a) and (b) of the as-built improvement plans.	Satisfied: ____ Date: _____ Staff: _____
57.	Prior to filing the Parcel/Final Map, the applicant shall submit the final City of Lafayette Stormwater Management Facilities Operations and Maintenance Agreement and Right of Entry to the Engineering Services Division for review and approval.	Satisfied: ____ Date: _____ Staff: _____
PRIOR TO ISSUANCE OF A GRADING PERMIT		**FOR STAFF USE ONLY**
58.	Mitigation Measure 4: Prior to issuance of a grading or building permit, whichever occurs first, submit a construction traffic control plan to the Engineering Services Manager for review and approval. The traffic control plan may include limitations on days and hours beyond those normally allowed for construction. The approved construction traffic control plan shall be implemented during all phases of active construction and may be modified by the Engineering Services Manager as required to ensure that impacts on area traffic and circulation are minimized to the maximum extent feasible.	Satisfied: ____ Date: _____ Staff: _____
59.	Mitigation Measure 20: Disturbance of grassland habitat during access road construction shall be confined to the area east of the proposed road to minimize any damage to more valuable habitats to the west.	Satisfied: ____ Date: _____ Staff: _____

60.	Mitigation Measure 23: A preconstruction survey for the California red-legged frog and the Alameda whipsnake shall be conducted of the areas of the project site that would be affected prior to construction. Upon completion of the preconstruction survey, survey results shall be reported to the Planning Services Division. If evidence of these or other special status species is found, the California Department of Fish and Game shall be consulted.	Satisfied: ____ Date: _____ Staff: _____
61.	Mitigation Measure 24: A preconstruction survey shall be conducted for nesting raptors within 250 feet of any construction area within 21 days of construction. A buffer of a radius of at least 250 feet shall be established between any nesting raptor and construction activity. The project sponsor shall submit plans to the Planning Services Division showing the buffer area and protection measures such as fencing or other measure(s) approved by the City. This buffer shall be maintained until the chicks fledge, unless a biologist experienced with raptor nesting behavior determines that the buffer can be reduced without stressing the nesting raptor.	Satisfied: ____ Date: _____ Staff: _____
62.	Prior to approval of any grading permit or in conjunction with an application for Design Review approval, whichever occurs first, the applicant shall submit a tree permit application pursuant to Chapter 6-17 of the Lafayette Municipal Code. Compliance with this chapter will result in the replacement or mitigation of any protected tree affected by the project.	Satisfied: ____ Date: _____ Staff: _____
63.	The applicant shall install protective measures for all trees to remain. Protective measures shall be shown on the grading and/or drainage plan and shall be reviewed by a certified arborist. All tree protection measures shall be approved, installed and inspected by the City before any construction may begin. The City may elect to have the installed tree protection measures inspected by a consulting certified arborist to be paid for by the applicant. All existing trees to remain shall be protected with the following measures during construction: a. Protective fencing shall be installed prior to any construction activity, including clearing and grubbing, at the project site. Fencing shall be a minimum of one foot beyond the maximum dripline of all trees and may extend well beyond the dripline under certain site conditions. b. Fencing shall be six feet high and shall form a continuous barrier around protected trees. The length, spacing, depth and material of the posts securing the fencing shall be designed to remain solidly in place until the final City inspection is made. Two protection fence detail options are provided in the City's Construction Policies and Guidelines for Tree Preservation and Protection to provide direction for this fencing. The City may require modifications to these details depending on the particular site conditions. c. Other protection measures may be necessary including using hay bales at the base of the trunk for trunk protection of critical trees, if necessary. In addition, 2 x 4s or other approved material may be necessary to protect overhanging limbs that are proposed to be retained.	Satisfied: ____ Date: _____ Staff: _____

d. The site supervisor shall direct all contractors and subcontractors to remain outside of the fenced area of the dripline and shall not allow any type of construction activity, including parking or storage within the fenced area. The fencing must remain in place for the duration of the project.

e. All underground work within tree driplines shall be avoided wherever possible to minimize impacts. Locating utilities and necessary trenching outside of the canopy driplines is the best solution; trenching and grading within the dripline has the potential to seriously compromise the health and structural integrity of the trees. If trenching or grading within the dripline is completely unavoidable because of site constraints, then the project arborist or landscape architect shall be consulted on-site to advise on the least damaging course of action. The trenching shall also be reviewed with the City inspector prior to excavation.

f. Trenches within the dripline shall be hand dug. Cuts to tree roots shall be minimized to the extent feasible and shall be treated as exposed. Roots of trees shall never be pulled because of excessive damage. The project arborist or landscape architect shall be on-site to direct treatment of any damaged roots as they are exposed. Treatment shall include cutting the roots cleanly with sharp tools; no wound dressing products shall be used. The roots shall be trimmed, cleaned, and covered with wet burlap and/or shredded mulch. The project arborist or landscape architect shall assess a tree for structural impacts if roots over two inches in diameter are encountered.

g. Cutting and filling within the dripline of trees shall be avoided. Any fill mistakenly placed against the trunk of a tree shall be removed to restore the natural flair of the trunk. Appropriate retaining walls shall be constructed along and outside of the dripline area if grade changes approach the drip line and a 2:1 return slope cannot be constructed.

h. Access within the dripline shall be granted only as a condition of the tree removal application. If pruning is required for safe access and clearance within the dripline, then necessary pruning shall be to the standards and guidelines of the International Society of Arboriculture. The safety of the construction equipment operators is paramount; however, excessive or improper pruning can seriously impact the health and vigor of the tree. Pruning shall be as minimal as possible, so equipment heights shall be measured and trees pruned accordingly under the direction of a certified arborist. Pruning shall be done prior to construction activities and shall not be done by construction personnel. Pruning more than 30 percent of a tree at one time is considered a significant impact. The project arborist shall identify and monitor all pruning activities during construction.

i. Individual or isolated trees subject to the influences of trenching, grade changes, or altered drainage patterns shall be provided with a protective layer of mulch prior to construction activities. Mulch shall be chipped bark material placed in a layer that is 4 to 6 inches deep. Mulch shall be placed away from the trunk and extend out to the dripline of the canopy or the

	edge of the protective fencing. Any weeds growing beneath the canopy may be removed by hand before mulch is placed. Weeds shall not be sprayed with herbicide within the tree canopy zone. The area beneath the dripline shall be well-watered prior to the placement of the mulch so that moisture is not wicked out of the soil by the mulch itself. j. If necessary, specific instructions for fertilization, disease, pest control, and weed control shall be made for individual trees. In general, chemical controls shall be avoided on the project site so that problems are not exacerbated and overall impacts to the natural balance are minimized. k. Watering during construction to minimize tree stress is crucial when ¼ or more of a tree's roots have been disturbed. Water shall be slowly applied to a minimum depth of 12 inches for the full outer half of the canopy/dripline area. The area immediately adjacent to a tree trunk shall not be watered. Watering shall occur once a month during the dry season (May through September). Trees near asphalt shall be supplied with additional water because asphalt paving absorbs heat which in turn raises nearby soil temperature and increases moisture loss. l. All grading shall be designed to drain water away from the base of the trees to avoid creating areas of ponding within the dripline. The natural drainage across the site shall be retained as much as possible. m. If it is necessary to pave beneath the dripline the maximum allowable cut or fill shall be six inches for paving within the dripline. In addition, paving modifications including gap graded gravel, pier and grade beam footings, steel reinforcement, or aeration breaks in the paving may be required. n. If equipment access is absolutely necessary beneath the dripline of a tree, a mulch layer (4-12 inches, depending upon the weight of the equipment) of tree chips or cocoa hulls shall be placed over the area that would be affected prior to allowing the equipment to cross. Work shall be scheduled so that the equipment is only required to cross the root zone once to enter and once to exit. The mulch shall be left on the site since removal may cause damage to surface feeder roots. o. Under each circumstance where an arborist is required to supervise or observe construction, the arborist may require additional mitigation measures or halt construction if necessary to protect the subject trees. p. Trees which are excessively damaged due to inadequate protection or negligence by the contractor shall be replaced at the applicant's expense. Replacement shall be determined in the same manner as mitigation plantings.	
64.	Mitigation Measure 17: Prior to issuance of grading or building permits, whichever occurs first, the applicant shall comply with NPDES General Construction Activities Storm Water Permit Requirements established by the CWA including preparation of a SWPPP. The SWPPP shall identify specific types and sources of storm water pollutants, determine the location and nature of potential impacts, and specify appropriate control measures to eliminate any potentially significant impacts to receiving water quality from storm water runoff. In addition to complying with the standards established by the CWA for	Satisfied: ____ Date: _____ Staff: _____

	preparation of a SWPPP, the SWPPP shall also comply with the directions for preparing a SWPPP contained in the latest edition of the Guidelines for Construction Projects published by the California Regional Water Quality Board San Francisco Region.	
65.	Mitigation Measure 18. Prior to issuance of grading or building permits, whichever occurs first, the project sponsor shall submit to the City Engineering Services Manager a copy of the Notice of Intent (NOI) and SWPPP sent to the State Water Resources Control Board.	Satisfied: ____ Date: _____ Staff: _____
66.	Plans submitted for grading and building permits shall include the following noise standards copied onto the plans: a. Site improvement and construction work, including setup, loading or unloading of materials and equipment, and/or the maintenance, refueling or tune-up of any equipment shall be restricted to the hours of 8:00 a.m. to 6:00 p.m., Monday through Saturday. No construction shall occur on Sundays or federal holidays. b. All construction equipment powered by internal combustion engines shall be properly maintained and muffled to reduce noise levels to the maximum extent feasible. c. Unnecessary idling of internal combustion engines near existing noise sensitive receptors shall be prohibited. d. Stationary equipment shall be located as far away from residences as feasible, but in no case shall be closer than 40 feet to any property line or exceed 70 dBA at 50 feet. Non-stationary mobile equipment shall not exceed 83 dBA at 50 feet.	Satisfied: ____ Date: _____ Staff: _____
67.	Applicant shall obtain all grading permits required by applicable law and regulations for earthwork necessary to develop the roadways, dwellings, and driveways on each lot.	General or ongoing condition.
68.	Grading operations shall be scheduled only between April 15 and October 1 to avoid the Fall and Winter rains. At the applicant's risk, grading may begin as early as March 15 and continue past October 1, only if approved stormwater pollution prevention measures have been installed and certified as operational by the Project Engineer and the Contra Costa County Grading Inspector.	General or ongoing condition.
	PRIOR TO ISSUANCE OF BUILDING PERMITS	**FOR STAFF USE ONLY**
69.	Mitigation Measure 6: Prior to submittal of design review and hillside development permit applications for the individual homesites, design-level subsurface testing and investigations shall be conducted to determine design parameters for house foundations and improvements. The scope and location of subsurface testing and related investigations shall be coordinated with the City Engineering Services Manager. Subsequent subsurface testing and related reports shall be subject to review and approval by the City Engineering Services Manager.	Satisfied: ____ Date: _____ Staff: _____
70.	Mitigation Measure 25: Plans for development of individual lots on the site shall be reviewed pursuant to the City's Design Review process to ensure that visual impacts are minimized. Possible measures to reduce visual impacts would include height and bulk restrictions and use of earth-tone colors in the	Satisfied: ____ Date: _____ Staff: _____

	design of the new houses, and screening through use of drought-tolerant and/or native landscaping. The applicant would be required to execute the City's standard landscape maintenance agreement prior to issuance of a permit for building construction to ensure that existing and new vegetation and landscaping is maintained.	
71.	Mitigation Measure 1. The City of Lafayette shall verify compliance with the Creek Setback Ordinance through review of plot plans for individual parcels on the project site as part of the City's Design Review and Hillside Development Permit process.	Satisfied: ____ Date: _____ Staff: _____
72.	Mitigation Measure 19: Any future development on Parcel B shall be planned so as to avoid the more valuable wildlife habitats (oak woodland, coastal scrub, and riparian) to the west and southwest.	Satisfied: ____ Date: _____ Staff: _____
73.	Mitigation Measure 21: Construction and landscaping on Parcel C shall be carried out with minimum disturbance to oak woodland habitat. Placement of the driveway and house site shall avoid removal of oak woodland, and any lost habitat shall be replaced on an acre-per-acre basis on the parcel and in conformance with Chapter 6-17, Tree Protection, Lafayette Municipal Code. Landscape materials shall consist of only native, drought-tolerant species.	Satisfied: ____ Date: _____ Staff: _____
74.	Plans for development of Parcel B shall include the planting of native vegetation for privacy screening between Parcel B and the abutting properties to the north on Sundown Terrace.	Satisfied: ____ Date: _____ Staff: _____
75.	Prior to approval of any grading permit or in conjunction with an application for Design Review approval, whichever occurs first, the applicant shall submit a tree permit application pursuant to Chapter 6-17 of the Lafayette Municipal Code. Compliance with this chapter will result in the replacement or mitigation of any protected tree affected by the project. *(duplicate)*	Satisfied: ____ Date: _____ Staff: _____
76.	Mitigation Measure 9: The expansive soils in the area will have future shrink and swell characteristics. All house foundations and super-structures should be carefully designed by an experienced structural engineer. Particular care should be given to connections, hold-downs, and reinforcement aspects of the house design. All house foundations should consist of drilled piers which are extended well into the bedrock underlying the surficial soils. The piers should be interconnected, designed to resist lateral creep forces, and contain voids below the grade beams. Retaining walls should also be designed for relatively high creep forces. The roadway designs should also take into consideration the uplift forces from the expansive soils. It is likely that a thick layer of non-expansive imported materials would be needed to help provide stability to the roadway section. Imported material would also likely be needed under any slab-on-grade improvements, walkways, or patios in the building areas. Proper surface drainage measures around the proposed homes would also help to minimize danger from expansive soils. Such measures would include collection of gutter downspouts to discharge pipes, collection of water on paved surfaces, and collection of water on the uphill side of the homes. Prior to issuance of a building permit, the applicant shall submit plans to the City Engineering Services Manager for review and approval. The plans shall demonstrate that	Satisfied: ____ Date: _____ Staff: _____

	the foundation design for the proposed structures, access road, and retaining walls have included the recommendations contained in the Geotechnical Study Update, June 1, 2006 or as amended by the City Engineering Services Manager. Prior to submittal to the City Engineering Services Manager for review and approval, the plans shall be reviewed by the project geotechnical engineer to ensure that the recommendations and specifications have been included.	
77.	Prior to issuance of a building permit, the location of electrical and mechanical equipment (e.g., ventilation and air conditioning units) shall be shown on construction drawings. Such equipment shall be located as far away as feasible from sensitive-receptor areas. Additionally, the following shall be considered before installation: proper selection and sizing of equipment and installation of equipment with proper acoustical shielding. Furthermore, mechanical equipment shall comply with the noise standards of the City as specified in Table 3.9-2 (Outdoor Noise Limits).	Satisfied: ____ Date: _____ Staff: _____
78.	Prior to issuance of building permits, construction drawings shall incorporate the following design specifications: fire-retardant roof materials and automatic fire sprinkler systems.	Satisfied: ____ Date: _____ Staff: _____
79.	Prior to the issuance of a building permit, the applicant shall comply with the City's current Efficient Landscape Requirements and Water Conservation Ordinance. Conservation measures shall incorporate equipment, devices, and methodologies for plumbing fixtures and irrigation that further water conservation, such as high-efficiency toilets, or ultra-low-flow toilets, and automatic irrigation system controllers.	Satisfied: ____ Date: _____ Staff: _____
80.	Prior to the issuance of a building permit for each new house, a City-approved landscape maintenance agreement for each lot shall be recorded assuring the long-term maintenance of the required landscape plan, as well as the existing trees.	Satisfied: ____ Date: _____ Staff: _____
81.	Prior to issuance of a grading or building permit, whichever occurs first, the applicant shall comply with all applicable codes, regulations, and ordinances administered by the Contra Costa County Fire Protection District in effect at the time the plans are reviewed and approved.	Satisfied: ____ Date: _____ Staff: _____
82.	The development of any parcel in this subdivision shall be subject to review and approval by the Fire District. Submit three sets of plans to the Fire District prior to obtaining a building permit. Plan review and inspection fees shall be submitted at the time of plan review submittal.	Satisfied: ____ Date: _____ Staff: _____
83.	Emergency apparatus access roadways and hydrants shall be installed, in service, and inspected by the Fire District prior to construction or combustible storage on site. (8704.1) CFC Written documentation that the Fire District is satisfied with the fire safety provisions on site shall be provided to the Planning Services Division prior to issuance of a building permit.	Satisfied: ____ Date: _____ Staff: _____
84.	The applicant shall submit construction plans involving work on the public sewer system to the Central Contra Costa Sanitary District for review and approval before the issuance of a building permit. Development shall conform to the conditions and recommendations of the District.	Satisfied: ____ Date: _____ Staff: _____

	PRIOR TO OCCUPANCY OF FIRST HOUSE	FOR STAFF USE ONLY
85.	Prior to the sale of any lot or prior to final building inspection, whichever occurs first, the applicant shall execute any agreements identified in the Stormwater Control Plan that pertain to the transfer of ownership and/or long-term maintenance of stormwater treatment or hydrograph modification BMPs. Post construction stormwater pollution prevention guidelines, approved by the City, shall be given to new owners prior to the transfer of any property.	Satisfied: ____ Date: _____ Staff: _____
86.	All subdivision improvements shall be completed and accepted by the City.	Satisfied: ____ Date: _____ Staff: _____
87.	If remedial earthwork occurs in the dedicated trail easement, the ground within the easement shall be returned to a walkable state prior to occupancy of the first house.	Satisfied: ____ Date: _____ Staff: _____

- end -